

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1229

B
P/S

United States Court of Appeals FOR THE SECOND CIRCUIT

Docket No. 74-1229

UNITED STATES OF AMERICA,
Plaintiff-Appellant,
—against—

ARTICLES OF JEWELRY and WEARING APPAREL and
HARRIET SENZ,
Defendant-Appellee-Cross-Appellant,
IRA SENZ,
Claimant-Intervenor-Cross-Appellee.

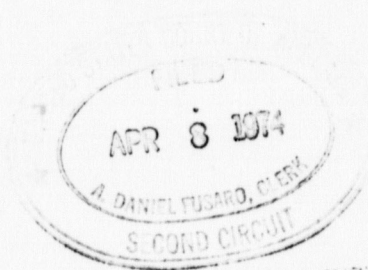
ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JOINT APPENDIX

EDWARD JOHN BOYD, V
United States Attorney
Eastern District of New York
Attorney for Plaintiff-Appellant

PHILLIPS, NIZER, BENJAMIN,
KRIM AND BALLON, ESQS.
40 West 57th Street
New York, New York 10019
Attorneys for Appellee and
Cross-Appellant

AUSTRIAN, LANCE AND
STEWART, ESQS.
280 Park Avenue
New York, New York 10017
Attorneys for the Cross-Appellee



PAGINATION AS IN ORIGINAL COPY

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TITLE OF CASE	ATTORNEYS
	<i>For Plaintiff:</i>
UNITED STATES OF AMERICA	EDWARD R. NEAHER
vs.	U.S. ATTORNEY
ARTICLES OF JEWELRY AND	
WEARING APPAREL and	<i>For Defendant:</i> AUSTRIAN, LAN
HARRIET L. SENZ	& STEWART, ESQ
	280 Park Ave., N.Y., N
	10017
BASIS OF ACTION: FORFEITURE - CUSTOMS Pursuant to	Tel: 682-5200
Title 19 U.S.C. Sections 1497 and 1595 (a,b)	HARRIET L. SENZ
	HERMAN S. KATZ
	305 Broadway
JURY TRIAL CLAIMED	New York, N.Y. 10007
ON	WO2-7804

[illegible][illegible]

70C 281

A 2

U.S.A. vs ARTICLES OF JEWELRY AND WEARING
APPAREL AND HARRIET L. SENZ

DATE	FILINGS—PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
1/6/70	COMPLAINT FILED. WARRANT FOR ARREST IN ACTION IN REM ISSUED.	1
	WARRANT FOR ARREST OF ARTICLE IN REM ISSUED.	
3/20/70	Summons returned and filed with US Marshall's Return thereon. (Served on Harriet L. Senz, 200 Central Park South, N.Y., N.Y., on March 11, 1970)	2
3/20/70	Summons returned on request. Not served, March 11, 1970, filed.	3
4/23/70	Warrant for Arrest of Article in rem returned, with Marshall's return thereon, filed. Articles of jewel ry and wearing apparel arrested, on March 9, 1970. Notice of arrest returned and filed. Addressed to Harriet L. Senz, Cert. #282972. Proof of Publication filed.	4,5,6
4-24-70	Notice of Claim filed. (IRA SENZ, claimant-intervenor and husband of HARRIET SENZ)	7
4-24-70	ANSWER FILED (IRA SENZ, etc.)	8
4-30-70	Application for Delivery of Seized Proptry filed with attached list of articles.	9
4-28-70	BY MISHLER, J. STIPULATION and order filed extending tim to answer, etc., to JULY 6, 1970. (P/C mailed to attys.) (D.J.)	10
4-16-70	Before MISHLER, CH. J.- Case called - Trial date set down for Mar 1, 1971.	
4-14-72	Before MISHLER, CH. J.- Case called - adjd to 10-6-72 at 2:P.M. for trial.	
4-26-72	Letter of Michael Schlanger filed dated Sept.26, 1972 addressed to MISHLER, J.	11
4-6-72	Before MISHLER, CH. J. Case called. Motion for withdrawal as attorney, by firm of SCHLANGO, BLUMENTHAL & LYNNE, ESQS., for defendant Harriet L. Senz GRANTED. Trial set down for Dec.15, 1972 at 2:00 P.M.	
4-15-72	Before MISHLER, CH. J. Case called. Adjourned for trial on application by the defendants to Feb. 16, 1973 at 2:00 P.M.	
4-30-73	Letter of Angelo T. Cometa, Esq., filed dated March 29, 1973 addressed to Mark J. Kronman, Esq., Austrian, Lance & Stewart, P.C., etc.	12
4-30-73	Letter of Angelo T. Cometa, Esq., filed dated March 29, 1973 addressed to Assitant U.S.Atty., Robert Rosenthal, etc.	13

A 3 SHEET #2

70-C-281 U.S.A. vs. ARTICLES OF JEWELRY etc.
CIVIL DOCKET

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED EMOLUMENT RETURN
		PLAINTIFF	DEFENDANT	
4-6-73	Before MISHLER, CH. J. Case called. Trial ordered and begun. Motion of defendant for a cross-claim - DECISION RESERVED. Trial to be continued on April 9, 1973 at 1:00 P.M.			
4-9-73	Before MISHLER, CH. J. Case called. Trial resumed. Motion by defendants to dismiss the complaint, MOTION DENIED. Deposition of Ira Senz to take place on April 19, 1973 at 2:00 P.M. in the Courthouse. All parties rest except for the deposition of Ira Senz. Briefs to be submitted by May 15, 1973. Trial concluded. DECISION RESERVED.			
4-25-73	AMENDED ANSWER, COUNTERCLAIM and CROSS-CLAIM of HARRIET L. SENZ filed.			14
4-25-73	PRE-TRIAL MEMORANDUM OF LAW FILED.			15
4-27-73	Letter of David L. Fox, Esq., filed dated April 18, 1973 addressed to MISHLER, CH. J. withdrawing request, etc.			16
5-3-73	Minutes of stenographer filed dated April 6, 1973, etc.			17
5-10-73	Minutes of stenographer filed dated April 9, 1973.			18
6-15-73	Post-Trial Memorandum of law filed of defendant, etc.			19
6-15-73	Post-Trial Memorandum of Claimant-Intervenor, IRA SENZ, filed.			20
6-15-73	MEMORANDUM OF LAW FILED.			21
7-20-73	SUPPLEMENTAL MEMORANDUM OF LAW FILED.			22
8-1-73	Reply memorandum of law of Harriet L. Senz filed.			23
8-6-73	COPY OF ANSWER FILED.			24
8-7-73	Letter of David L. Fox filed dated 8-1-73 to Judge Mishler re: advising that Claimant Intervenor, Ora Senz will not submit a response to the Government's supplemental Memorandum of Law.			25
8-10-73	BY MISHLER, CH. J. Memorandum of Decision filed. plaintiff is entitled to forfeiture of item 10, but no value having been established thereon, no penalty shall be imposed. Defendant Harriet Senz is entitled to the return of her possession of items 1 to 9, and to retain in her possession item 11. Claimant-intervenor Ira Senz has failed to establish any right to any of the items and his claim is DISMISSED. Defendant Harriet Senz' cross=claims against claimant-intervenor Ira Senz are DISMISSED as MOOT, no penalty having been imposed.			26

70-C-281 UNITED STATES OF AMERICA vs. ARTICLES OF JEWELRY and WEARING APPAREL

DATE	FILINGS—PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED EMOLUMENT RETURN
		PLAINTIFF	DEFENDANT	
	The foregoing constitutes findings of fact and conclusions of law in accordance with Rule 52(a) of the F.R.C.P.			
	SETTLE JUDGMENT in accordance with this memo., of decision on two days' notice. (See Memo., etc.)			
8-13-73	Copy of Declaration form of defendant, HARRIET SENZ FILED.		27.	
9-21-73	BY MISHLER, CH. J. JUDGMENT FILED. Plaintiff is entitled to forfeiture of item 10, without the imposition of any penalty upon defendant, HARRIET L. SENZ; 2. Defendant Harriet Senz is entitled to the return of her possession of items 1 to 9, etc. JUDGMENT <u>STAYED</u> pending disposition of pltf's appeal. <i>1/c must bring memo.</i>		28.	
11-16-73	NOTICE OF APPEAL FILED (U.S.A.) -from judgment of Sept. 21, 1973.		29.	
11-16-73	Copy of Notice was on this day mailed to Phillips, Nizer, Benjamin, Krim * Ballon, Esqs., and to Austrian, Lance & Stewart, Esqs., N.Y., N.Y.,			
11-16-73	Copy of Notice of Appeal was on this day mailed to Clerk, U.S.C.A. <i>Wm. J.</i>			
11-16-73	Instructions on preparation of appeal were on this day mailed to U.S. Atty., ATT: ROBERT ROSENTHAL, Assistant U.S. Atty., etc. <i>Wm. J.</i>			
11-29-73	Notice of Protective CROSS-APPEAL FILED (from so much of the final judgment entered on Sept. 21, 1973, etc.)		30.	
11-29-73	Instructions were handed personally re record to Phillips et al.			
11-30-73	Copy of Cross-Appeal was on this day mailed to Clerk, U.S.C.A. <i>Wm. J.</i>			
11-30-73	Copy of Cross-Appeal was on this day mailed to ROBERT A. MORSE, U.S. ATTY., etc. <i>Wm. J.</i>			
11-30-73	Copy of Cross-Appeal was on this day mailed to Austrian Lance & Stewart, Esqs., 280 Park Ave., N.Y., N.Y. 10017 <i>Wm. J.</i>			
12-26-73	BY MISHLER, CH. J. Stipulation and order filed extending time of plaintiff-appellant to transmit the record on appeal etc., to January 28, 1974.		31.	

[illegible]

SCA:GP
700241

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

700 281

A 6

UNITED STATES OF AMERICA,

Plaintiff,

-against-

ARTICLES OF JEWELRY AND WEARING
APPAREL and HARRIET L. SENZ,

Defendants.

COMPLAINT IN REM

IN PERSONA

Civil Action No.

FILED

IN CLERK'S OFFICE

U. S. DISTRICT COURT E.D. N.Y.

MAR 6 - 1970

Plaintiff, by its attorney, EDWARD M. NEAHER, United States Attorney for the Eastern District of New York, complaining of the defendants, upon information and belief, respectfully alleges.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT ARTICLES OF
JEWELRY AND WEARING APPAREL.

1. That at all times hereinafter mentioned, plaintiff was and now is a corporate sovereign and body politic.
2. That jurisdiction is founded on Title 28, United States Code, Sections 1345 and 1355.
3. That venue is founded on Title 28, United States Code, Sections 1395(a), (b).
4. That on or about September 11, 1968, the defendant, Harriet L. Senz, entered the United States of America at John F. Kennedy International Airport, Queens, New York, within the Eastern District of New York, after debarking TWA Flight 711, from London, England.
5. That on said date, defendant Harriet L. Senz, failed to declare and said articles were not included in the declaration and entry as made and before the examination of baggage was begun, certain articles of jewelry and wearing apparel, as indicated in

plaintiff's "Exhibit A", attached hereto and made a part hereof, all in violation of Title 19, United States Code, Section 1497.

6. That the appraised domestic value of the aforesaid articles of jewelry and wearing apparel is eleven thousand one hundred and ten dollars (\$11,110.00).

7. That at the above time and place the aforementioned jewelry andwearing apparel was lawfully seized within the jurisdiction of the United States District Court for the Eastern District of New York by agents of the United States Treasury Department, Bureau of Customs, as forfeited to the United States of America for violation of the laws and statutes of the United States of America.

8. That by reason of the foregoing the above entitled articles became forfeitable and subject to a decree of forfeiture under the provisions of Title 19, United States Code, Section 1497.

AS AND FOR A SECOND CAUSE OF ACTION
AGAINST THE DEFENDANT HARRIET L. SFNZ.

9. Plaintiff repeats, reiterates and realleges each and every allegation set forth in the first cause of action 1 through 7 inclusive, as if the same were set forth herein at length.

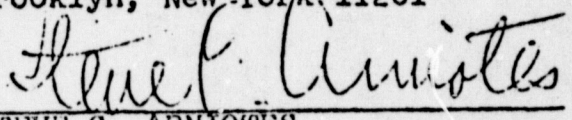
8. By reason of the premises and for breach of the laws of the United States and in particular Title 19, United States Code, Section 1497, and in accordance with the provisions of Title 19, United States Code, Section 1595(a), (b), the defendant did incur a penalty and became indebted to the plaintiff in the sum of \$11,100.00.

WHEREFORE, plaintiff prays that process in due form of law according to the course of this Court in cases of actions in rem issue against the aforesaid articles; that all persons having any interest therein be cited to appear herein and answer the aforesaid premises; that this Court decree the forfeiture of the aforesaid articles and grant plaintiff the costs of this proceeding against the claimant of the aforesaid articles; on the first cause of action alleged in the complaint and plaintiff demands judgment against the defendant Harriet L. Senz, in the sum of \$11,100.00 plus interest at the rate of 6% per annum from September 11, 1968 plus costs on the second cause of action alleged in the complaint and that such other disposition be had thereon as the Court may direct.

Dated: Brooklyn, New York
March 6, 1970

EDWARD R. NEAHER
United States Attorney
Eastern District of New York
Attorney for Plaintiff
225 Cadman Plaza East
Brooklyn, New York 11201

By:


STEVE C. ARNIOTES
Assistant U.S. Attorney

Harriet S. A. 2.

TWA 7/11

9-11.6.8

PLATE NUMBER

10176

[illegible]

9/11/68

52585

HARRIET L. SENE

TWA 711-9/11/68

9/11/68

TEAM NO.

11

1 LADY'S 3-PC, GREEN,
3 LBS. WOOL KNIT

\$300

37 1/2%

1.13

\$420

20%

60.00

Not reduced to provision

61.13

John A. Sauter
Super. Ldg. 724

VERIFICATION

STATE OF NEW YORK

COUNTY OF KINGS

SS.:

STEVE C. ARNOLD, being duly sworn, deposes and says that he is an Assistant United States Attorney in charge of the within action; that he has read the foregoing Complaint in Rem and In Persona and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

STEVE C. ARNOLD
Assistant U.S. Attorney

Sworn to before me this
6th day of March 1970.

LEON A. BART
Notary Public, New York
No. 52
Commission Expires March 30, 1970

A 12

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

DEC 24 1970

TIME A.M.
P.M.

UNITED STATES OF AMERICA,

Plaintiff,

-against-

ARTICLES OF JEWELRY AND WEARING
APPAREL and HARRIET L. SENZ,

Defendants.

IRA SENZ,

Claimant-Intervenor.

Civil Action File
No. 70 C 281

NOTICE OF CLAIM

S I R:

PLEASE TAKE NOTICE that IRA SENZ, claimant-intervenor, and husband of HARRIET SENZ, defendant, hereby claims title to the attached articles of jewelry and wearing apparel which are the subject of the above mentioned action.

Yours, etc.,

IRA SENZ,

By AUSTRIAN, LANCE & STEWART
Attorneys for Claimant-Intervenor
Ira Senz

280 Park Avenue
New York, New York 10017
682-5200

By Joel I. Genzer
Joel I. Genzer

TO:

EDWARD R. NEAHER
United States Attorney
Eastern District of New York
Attorney for Plaintiff
225 Cadman Plaza East
Brooklyn, New York 11201

CLERK OF THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ATTORNEY'S VERIFICATION

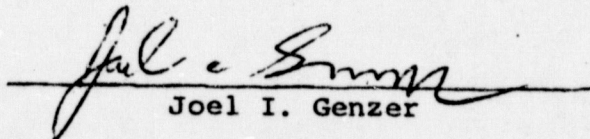
STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JOEL I. GENZER, being duly sworn, deposes and says:

I am an attorney at law and a member of the firm of AUSTRIAN, LANCE & STEWART, attorneys for IRA SENZ, the Claimant-Intervenor in the above entitled action. I have read the foregoing Notice of Claim and know the contents thereof and the same is true of my own knowledge except as to the matters therein alleged to be upon information and belief, and as to those matters I believe it to be true.

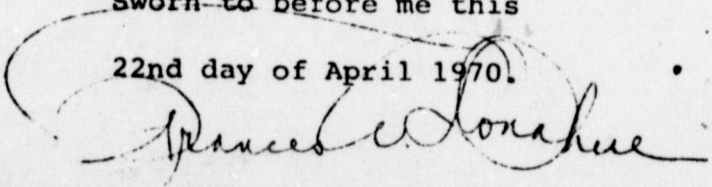
The reason why this verification is made by the deponent and not by the Claimant-Intervenor is that the Claimant-Intervenor is without the United States of America and has authorized your deponent to make this verification.

The sources of my information and the grounds of my belief as to all matters in said Notice of Claim stated to be alleged upon information and belief are correspondence and documents in my possession.


Joel I. Genzer

Sworn to before me this

22nd day of April 1970.


FRANCES A. DONAHUE
Notary Public, State of New York
No. 24-096625
Cert. filed in New York County
Qualified in Kings County
Commission Expires March 30, 1971

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 14

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action File
No. 70 C 281

-against-

ANSWER

ARTICLES OF JEWELRY AND WEARING
APPAREL and HARRIET L. SENZ,

Defendants.

IRA SENZ,

Claimant-Intervenor.

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
APR 24 1970
TIME A.M. _____
P.M. _____

Claimant-Intervenor, IRA SENZ, answering the complaint herein,
by its attorneys AUSTRIAN, LANCE & STEWART, respectfully alleges:

FIRST: Denies having any knowledge or information sufficient to form a belief with regard to each and every allegation contained in paragraph "4" of the complaint.

SECOND: Denies having any knowledge or information sufficient to form a belief with regard to each and every allegation contained in paragraph "5" of the complaint.

THIRD: Denies upon information and belief each and every allegation contained in paragraph "6" of the complaint.

FOURTH: Denies having any knowledge or information sufficient to form a belief with regard to each allegation contained in paragraph "7" of the complaint.

FIFTH: Denies upon information and belief each and every allegation contained in paragraph "8" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE
TO PLAINTIFF'S FIRST CAUSE OF ACTION:

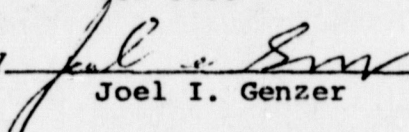
SIXTH: That upon information and belief the jewelry and wearing apparel had been declared on previous entries into the United States, and the full and proper import duty had been paid to the plaintiff on such prior entries.

WHEREFORE, claimant-intervenor, IRA SENZ prays that the complaint herein be dismissed and that the aforementioned items of jewelry and wearing apparel be released to him by the plaintiff, with costs and for such other and further relief as the Court may direct.

Dated: New York, New York
April 17, 1970

AUSTRIAN, LANCE & STEWART
Attorneys for Claimant-Intervenor
280 Park Avenue
New York, New York 10017
682-5200

By


Joel I. Genzer

ATTORNEY'S VERIFICATION

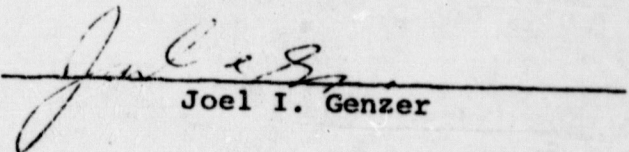
STATE OF NEW YORK)
 : ss.:
 COUNTY OF NEW YORK)

JOEL I. GENZER, being duly sworn, deposes and says:

I am an attorney at law and a member of the firm of AUSTRIAN, LANCE & STEWART, attorneys for IRA SENZ, the Claimant-Intervenor in the above entitled action. I have read the foregoing answer and know the contents thereof and the same is true of my own knowledge except as to the matters therein alleged to be upon information and belief, and as to those matters I believe it to be true.

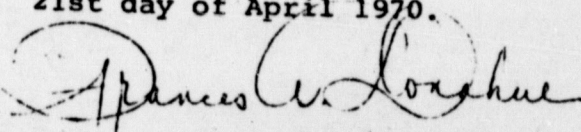
The reason why this verification is made by the deponent and not by the Claimant-Intervenor is that the Claimant-Intervenor is without the United States of America and has authorized your deponent to make this verification.

The sources of my information and the grounds of my belief as to all matters in said answer stated to be alleged upon information and belief are correspondence and documents in my possession.


 Joel I. Genzer

Sworn to before me this

21st day of April 1970.


 FRANCES A. DONAHUE
 Notary Public, State of New York
 No. 24-0986829
 Cert. filed in New York County
 Qualified in Kings County
 Commission Expires March 30, 1971

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 70 C 281

-against-

ANSWER

ARTICLES OF JEWELRY AND WEARING
APPAREL and HARRIET L. SENZ,

Defendants.

Defendant, HARRIET L. SENZ, by her attorney, HERMAN S. KATZ,
answering the complaint herein, respectfully alleges as follows:

1. Denies each and every allegation contained in paragraphs
designated as "5", "6", "7", "8", and "10" (shown as "8") of the
complaint herein.

2. Defendant, HARRIET L. SENZ, repeats, reiterates and re-
alleges each and every admission and denial contained in paragraph
designated as "9" of the complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE.

3. Upon information and belief the articles of jewelry and
wearing apparel had been declared on previous entries unto the
United States of America and that the full and proper import
duties had been paid thereon to the plaintiff on such prior entries.

WHEREFORE, defendant, HARRIET L. SENZ, demands judgment dismissing the complaint herein with costs and that the articles of jewelry and wearing apparel be turned over to her by the plaintiff, and for such other and further relief as the Court may direct.

PLEASE TAKE NOTICE that the aforesaid defendant hereby demands a trial by jury.

Dated: New York, New York
June 26, 1970

HERMAN S. KATZ
Attorney for Defendants
305 Broadway
New York, New York 10007
Worth 2-7804

McKin CL
 UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

FILED
 IN CLERK'S OFFICE
 U. S. DISTRICT COURT E.D. N.Y.

★ APR 25 1973

-----X
 UNITED STATES OF AMERICA,

Plaintiff,

-against-

ARTICLES OF JEWELRY AND
 WEARING APPAREL and HARRIET L. SENZ,

Defendants.

IRA SENZ,

Claimant-Intervenor.
 -----X

TIME A.M.....
 P.M.....

AMENDED ANSWER,
 COUNTERCLAIM AND
 CROSS CLAIM

Civil Action File
 No. 70C 281

Defendant, HARRIET L. SENZ, by her attorneys, Phillips, Nizer, Benjamin, Krim & Ballon, for her amended answer to the complaint herein, respectfully alleges as follows:

1. Denies each and every allegation contained in paragraphs designated as "5," "6," "7," "8," and "10" (shown as "8") of the complaint herein.

2. Defendant, HARRIET L. SENZ, repeats, reiterates and realleges each and every admission and denial contained in paragraph designated as "9" of the complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

3. Upon information and belief the articles of jewelry and wearing apparel had been declared on previous entries unto the United States of America and that the full and proper import

duties had been paid thereon to the plaintiff on such prior entries.

**AS AND FOR A SECOND AFFIRMATIVE
DEFENSE AND BY WAY OF A COMPLETE
COUNTERCLAIM:**

4. On or about September 11, 1968, the defendant entered the United States of America at John F. Kennedy International Airport, Queens, New York, after debarking TWA Flight Number 711 from London, England.

5. At all times hereinafter mentioned and in particular on the 11th day of September, 1968, the defendant was and still is the owner and entitled to the immediate possession of certain personal property, to wit:

- ① Gold Ring set with diamonds and blue stones - 1 each
- ② Ring with 2 diamonds and blue stone - 1 each
- ③ Ring with small diamond & Purple stone - 1 each
- ④ Ring with coral stone - 1 each
- ⑤ Ring with brown stone - 1 each
- ⑥ String of pearls with clasp (diamond) - 1 each
- ⑦ Brooch, gold and diamond - 1 each
- ⑧ Earrings, gold and diamonds - 1 pair

(as set forth on the attachment to the Government's complaint) of the value of approximately \$11,000 on the 11th day of September, 1968, in the possession of defendant at John F. Kennedy International Airport.

6. On the said 11th day of September, 1968, the plaintiff, a corporate sovereign and body politic wrongfully detained and took the said goods from defendant's possession and converted the

same to its own use all to defendant's damage in the sum of at least \$11,000.

AS AND FOR A CROSS CLAIM AGAINST
IRA SENZ, CLAIMANT-INTERVENOR:

7. In the event that it is adjudicated that duties on the aforesaid items are payable to the United States of America and that said duties have not been paid by reason of defendant's husband's (Claimant-Intervenor) failure to make appropriate declaration and payment of the requisite duties on gifts given to his wife, Defendant-Donee, then in that event the payment of said duties should be paid by defendant-husband as importer and donor and that judgment for such amount should be entered against him rather than against defendant-wife.

AS AND FOR A SECOND CROSS CLAIM
AGAINST IRA SENZ, CLAIMANT-INTERVENOR:

8. In the event of an adjudication as aforesaid, Claimant-Intervenor is fully obligated and responsible for the payment of all said duties on the ground that said duties are necessities and that by virtue of the marital relationship between defendant and Claimant-Intervenor, Claimant-Intervenor is responsible therefor.

WHEREFORE, defendant, HARRIET L. SENZ, demands judgment dismissing the complaint herein and that the articles of jewelry and wearing apparel be turned over to her by the plaintiff; upon her counterclaim, defendant demands judgment against the plaintiff in the sum of at least \$11,000; and that, in any event, any obligation due and owing to the United States

of America is chargeable to Claimant-Intervenor; together with costs and disbursements and such other disposition as the Court may direct.

Yours, etc.

Phillips, Nizer, Benjamin,
Krim & Ballon

By: Angelo T. Courta

A Member of said Firm
Attorneys for Defendant-
Harriet L. Senz
Office & P.O. Address
477 Madison Avenue
New York, New York 10022
(212) 753-6700

A 23

ROSENTHAL 70024
70-C-28

AUSTRIAN, LANCE & STEWART, P. C.

ATTORNEYS AT LAW
280 PARK AVENUE
NEW YORK, N. Y. 10017

(212) 683-8200

WILLIAM KLEIN II
MARK J. KRONMAN
JULIUS J. ROSEN
BARRY D. SHALOV
IRVING B. STEWART
DAVID L. FOX

RECEIVED
UNITED STATES DISTRICT COURT
APR 20 9 10 AM '73
EASTERN DISTRICT
OF NEW YORK
CARL J. AUSTRIAN (1931-1970)
J. LANCE (1931-1965)
CABLE ADDRESS: 'AUSTRIANCE'

April 18, 1973

Honorable Jacob Mishler,
Chief Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States of America vs. Certain
Articles of Jewelry and Harriet Senz
and Ira Senz, Claimant Intervenor.

Dear Judge Mishler:

On Monday, April 9, 1973, after the United States and Harriet Senz rested their respective cases, you granted our request to have Claimant-Intervenor, Ira Senz, be deposed in the above matter.

Please be advised that after reconsidering the present posture of the case, we hereby withdraw our request, and Mr. Senz rests on the evidence already presented. We have advised all other parties of this withdrawal, and they have indicated that they have no objection.

Yours truly,

AUSTRIAN, LANCE & STEWART, P.C.

DLF:tmc

By: _____
David L. Fox

cc: Robert Rosenthal, Esq.
Assistant U.S. Attorney

Angelo Cometa, Esq.
Phillips, Nizer, Benjamin,
Krim & Ballon

**Present to the Immigration and Customs Inspector
EACH ARRIVING TRAVELER OR HEAD OF A FAMILY MUST
FURNISH THE FOLLOWING INFORMATION**

① Please Print:

FAMILY NAME	GIVEN NAME	MIDDLE INITIAL
11	67	1

SENATE HARRIET 4.

PERMANENT - ADDRESS IN UNITED STATES OR ABROAD

200C 三井物産 株式会社 東京 日本橋区本町二丁目

VESSEL OR AIRCRAFT LINE & FLIGHT NO.	RESIDENCE OF CREW

Jul. A. = 411	Philip
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NAME & RELATIONSHIP OF ACCOMPANYING FAMILY MEMBERS

The laws of the United States require that your bag-
gage be examined and that you declare all articles acquired
abroad which are in your possession at the time of arrival,
including fruit and other plant material, meat and meat
products. FALSE STATEMENTS MADE TO A CUSTOMS
INSPECTOR ARE PUNISHABLE BY LAW. Con-
sult "U. S. Customs Hints" and your inspector for full
information on Customs exemptions.

NONRESIDENTS MAY MAKE AN ORAL DECLARA-
TION after completing the above information.

RETURNING RESIDENTS may usually make an oral
declaration after completing the above information. How-
ever, if the total fair retail value of the articles acquired
abroad and accompanying you and your family exceeds
the aggregate of \$100 per person, YOU MUST LIST ALL
SUCH ARTICLES IN WRITING ON THE REVERSE
OF THIS FORM.

FOR OFFICIAL USE ONLY

NO. PIECES BAGGAGE EXAMINED	TIME COMPLETED 11:20	STAMP NOS
INSPECTOR		

U.S. INFLATION

DATE	BADGE NO.	NEW YORK, N. Y. 43
------	-----------	--------------------

SEP 11 1968

TT TREASURY
DEPT 411210

Admitted	1960
UNIT	1960

FORM 6059-8
CUSTOMS

FORM 6059-B
E-200 Bureau No. 40-8190-1
100-800-878

LIST OF ARTICLES

State price ACTUALLY PAID. If not purchased, state fair price in country where obtained. You may combine articles costing less than \$5 each and list as MISCELLANEOUS up to a total of \$50. List separately all other items regardless of cost.

Cost. ~~intended~~ D/V private exp

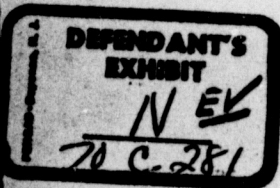
5-8-6	DESCRIPTION OF ARTICLES	PRICE PAID	CUSTOMS USE ONLY
	2 SLACK SUITS	\$60.00	813.10 (amount prior to exportation) E/AG 100 1/W+V 60
	1 DRESS	\$50.00	
	1 pair shoes	\$50.00	
		160.00	
	TOTAL PRICE PAID		

Attach Continuation Sheets If Necessary

A

25

9/22/65



8/12/65 835
 STATES **FIT CLASS**
 INSTRUCTIONS

Present to the

in and Customs Inspector

EACH ARRIVING
FURNISHOR HEAD OF A FAMILY MUST
FURNISH INFORMATION

Please Print:

1-NH 612710A

LAST NAME

FIRST NAME

MIDDLE INITIAL

SENZ

IRA

PERMANENT ADDRESS IN UNITED STATES OR ABROAD

200 CENTRAL PARK SOUTH NYC

VESSEL, OR AIRLINE & FLIGHT NO. RESIDENT OF (Country)

'QUEEN ELIZABETH'

USA

NAME & RELATIONSHIP OF ACCOMPANYING FAMILY MEMBERS

WIFE

The laws of the United States require that your baggage be examined and that you declare all articles acquired abroad including fruit and other plant material, meat and meat products. FALSE STATEMENTS MADE TO A CUSTOMS INSPECTOR ARE PUNISHABLE BY LAW. Consult "U.S. Customs Hints" and your Inspector for full information on Customs exemptions.

NONRESIDENTS MAY MAKE AN ORAL DECLARATION

RETURNING RESIDENTS may usually make an oral declaration. However, if, as a returning resident:

1. You or any member of your family are claiming an exemption on articles acquired abroad that are being shipped separately, YOU MUST LIST THOSE ARTICLES ON THE REVERSE OF THIS FORM.
2. The value of the articles acquired abroad by you or your family exceeds the total of \$100 per person, YOU MUST LIST ALL ARTICLES ACQUIRED ABROAD ON THE REVERSE OF THIS FORM.

FOR OFFICIAL USE ONLY

NO. PIECES
BAGGAGE
EXAMINED

DATE

INSPECTOR

Mielone 1026

TREASURY
DEPARTMENT

FORM NOV 63 6059-B

2438-7/41

Form Approved
Budget Bureau No. 48-R386.1

SEP 22 1965
 NEW YORK
 INS. & NAT. BUREAU
 A D M I T T E D
 CASES

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

70 C 281

-against-

ARTICLES OF JEWELRY and WEARING
APPAREL and HARRIET L. SENZ,

Memorandum of Decision

Defendant.

IRA SENZ,

August 10, 1973

Claimant-Intervenor.

Plaintiff brings this action pursuant to 19 U.S.C. § 1497, demanding forfeiture of the defendant articles of jewelry and wearing apparel and a penalty against defendant Harriet Senz equal to the alleged value of said articles. Defendant Harriet L. Senz counterclaims for the return to her possession of the eight items of jewelry. Claimant-intervenor Ira Senz, defendant's husband, claims possession of the jewelry and the wearing apparel. The action was tried before the court without a jury.

Mrs. Senz debarked from T.W.A. Flight 711 (from London, England) at John F. Kennedy International Airport in

A 27

9/22/65

DECLARATION FOR THE FREE ENTRY OF ARTICLES TAKEN OUT OF THE UNITED STATES
BY THE IMPORTER AND/OR BOOKS AND OTHER HOUSEHOLD EFFECTS USED
ABROAD FOR NOT LESS THAN ONE YEAR BY A RETURNING RESIDENT

(To be used when articles do not accompany the passenger)

BUREAU OF CUSTOMS

PORT OF

New York

9-22-65
(Date)

I, Mr. & Mrs. I. Senz, declare that I am a resident

of U.S.C., State of N.Y.; that I last departed from

the United States in the C.R. Division on or about the 30 day

of April, 1965, from the port of N.Y.; that I

arrived in the United States on my return at the port of N.Y. on or about the

22 day of Sept, 1965, in the Q. King (Vessel or carrier)

from England, accompanied by wife (Wife, child, maid, etc.); that, except

such as are hereinafter enumerated, all articles now imported by us in the (Vessel or carrier)

from (Where household effects were used), arriving on or about 19, consist

of (1) wearing apparel or personal or household effects taken abroad by me, or for my account, or by those

members of my family who accompanied me, or for their account, for personal use; or (2) professional books,

implements, instruments, and tools of trade, occupation, or employment, taken by me out of the United States,

or for my account; or (3) books, libraries, furniture, and similar household effects which were used abroad for

at least 1 year by me or one of us or by a family of which I or one of us was a resident member during such

period of use, and that such effects are intended for no other person or persons or for sale. My place of residence

abroad was (Where household effects were used)

(If any repairs or alterations were made abroad, describe the articles and state the cost of repairs or

alterations and the character thereof. If none were made, so state.)

NAME OF ARTICLES

DESCRIPTION OF REPAIRS

COST OR VALUE OF REPAIRS

Personal Jewelry		
& Wearing App.		

THIS BOX IS FOR CUSTOMS USE ONLY

PORT OF

DATE EXAMINED
AND RELEASED

INSPECTOR'S
SIGNATURE

(Signature)

(Address)

200 Central Park South
N.Y.C.

Queens, New York, on September 11, 1968. After passing through a primary customs inspection, she arrived at the secondary inspection belt manned by Customs Inspector John Turano. Mrs. Senz handed him her declaration (Customs Form 6059-B) and he noticed that there was nothing declared thereon. He asked her "if she had purchased any items abroad during her recent trip, including any items which she thought did not have to be declared." (Tr. p. 25, April 6, 1973). She indicated that she had amended her declaration to include several items of clothing and shoes which are not involved in this action.

Mr. Turano then proceeded with an examination of Mrs. Senz' baggage. After examining one piece of baggage, he asked her if he could see "her articles of jewelry, if she had any." (Tr. p. 26, April 6, 1973). She presented him with her jewelry bag. After noticing that several articles had foreign markings, Turano summoned his supervisor. The two officers brought Mrs. Senz to a private search room to continue the investigation. The customs officers eventually seized eight items of jewelry and two items of clothing. The suit which Mrs. Senz was wearing was also "seized" but was not reduced to possession; she was allowed

to wear it home. The eleven items were evaluated at a total of \$11,110.00, which plaintiff claims herein as a penalty against defendant Mrs. Senz.

The eleven items are listed in detail in the "Report of Seizure" (Government Exhibit 3 in evidence). I find that the articles of jewelry, items 1 to 8 inclusive on the schedule, are all of foreign origin. I further find that items 1 to 8 had all been brought into the United States by Mrs. Senz on occasions prior to September 11, 1968. The plaintiff has failed to make any showing that items 9 or 11 are of foreign origin. I find that item 10 is of foreign origin and that it was first brought into the United States on September 11, 1968.

19 U.S.C. § 1498(a)(6) gives the Secretary of the Treasury the authority to prescribe regulations for the declaration and entry of "[a]rticles carried on the person or contained in the baggage of a person arriving in the United States." 19 C.F.R. § 10.19(a) provides that "[a]ll articles brought into the United States by an individual shall be declared to a customs officer." 19 C.F.R. § 10.19(c)(1) provides that "effects of a returning resident entitled to free entry under item ... 813.10, Tariff

Schedules of the United States ..., need not be itemized in written declarations." Item 813.10 provides that all personal and household effects taken abroad by or for the account of returning residents are duty free upon importation. This is reiterated in 19 C.F.R. § 10.17(a): "Each returning resident is entitled under item 813.10 ... to bring in free of duty ... all personal and household effects which he took abroad."

"Personal effects" may be construed to cover personal jewelry. United States v. One Diamond and Platinum Brooch, 86 F.Supp. 329, 330 (N.D.N.Y. 1949). Clothing is certainly included in "personal effects." Thus, items 1 to 9 and item 11 were duty-free under item 813.10 of the Tariff Schedules. Item 10 was subject to duty and should have been declared. The issue remaining is whether the duty-free items should have been included in Mrs. Senz' declaration.

Subsections (a) and (c) of 19 C.F.R. § 10.19 seem to require that the duty-free items should have been included, though not necessarily itemized, in a written statement. Plaintiff argues that Mrs. Senz' failure to do so requires the application of the sanctions in 19 U.S.C.

§ 1497, which provides as follows:

"Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article."

Plaintiff's argument in essence is that the customs regulations require returning residents to declare all of their duty-free personal effects, including toothbrushes and bobby pins, or face the consequences of section 1497. I do not believe the regulations intend that result. To require an itemized written declaration of each individual personal effect would be unthinkable; to require a general written declaration of "personal effects" would be pointless. The instructions on Customs Form 6059-B, the form provided by Customs for written declarations, state that arriving travelers need declare only "articles acquired abroad," i.e., those articles which might be subject to duty. When Customs Inspector Turano questioned Mrs. Senz prior to examining her baggage, he asked her only whether she had "purchased any items abroad during her recent trip."

Furthermore, I doubt that the sanctions of section 1497 apply to the failure to declare duty-free items. The predecessor statute to section 1497 was Rev. Stat. § 2802, Act of March 2, 1799, Ch. 22, § 46, 1 Stat. 662, which provided as follows:

"Whenever any article subject to duty is found in the baggage of any person arriving within the United States, which was not, at the time of making entry for such baggage, mentioned to the collector before whom such entry was made, by the person making entry, such article shall be forfeited, and the person in whose baggage it is found shall be liable to a penalty of treble the value of such article." (emphasis added.)

For 123 years the statute clearly provided that the sanctions apply only in cases of non-declaration of articles "subject to duty." When the tariff laws were re-written in 1922, Rev. Stat. § 2802 was repealed and replaced by what is now codified as section 1497. The section was completely revamped, certain provisions were changed, and the words "subject to duty" were omitted. The legislative history indicates that the omission was unintentional. The report by the House Ways and Means Committee had only two sentences commenting on the changes resulting in section 1497:

"A somewhat longer period is allowed persons arriving from abroad for the declaration of dutiable articles by permitting

their disclosure at any time before examination of the package shall be begun. The penalty for neglect to declare is made the value instead of treble the value of the particular article or articles." H.R. Rep. No. 248, 67th Cong., 1st Sess. 25 (1921). (emphasis added.)

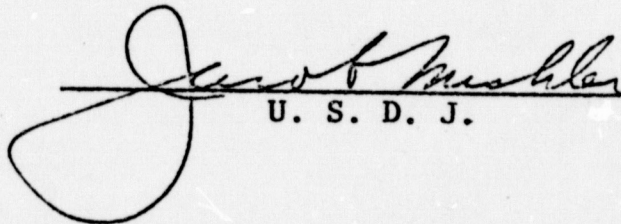
The Senate Finance Committee's report made no comment whatsoever on the change. S. Rep. No. 595, 67th Cong., 2nd Sess. (1922). While there is a dearth of authority on the applicability of section 1497 to duty-free articles, the discussion in one case which granted forfeiture implies that the sanction was applied only because the jewelry in question was dutiable. See United States v. 3 Diamond Rings (Ladies), 108 F.Supp. 374 (N.D. Cal. 1952). A recent Supreme Court case says that the section 1497 forfeiture "prevents forbidden merchandise from circulating in the United States" and thus aids the enforcement of tariff regulations. One Lot Emerald Cut Stones v. United States, ___ U.S. ___, 93 S.Ct. 489, 493 (1973). Duty-free articles are not "forbidden merchandise," and failure to declare them is not penalized by section 1497.

Plaintiff is entitled to forfeiture of item 10, but no value having been established thereon, no penalty shall be imposed. Defendant Harriet Senz is entitled to

the return of her possession of items 1 to 9, and to retain in her possession item 11. Claimant-intervenor Ira Senz has failed to establish any right to any of the items and his claim is dismissed. Defendant Harriet Senz' cross-claims against claimant-intervenor Ira Senz are dismissed as moot, no penalty having been imposed.

The foregoing constitutes findings of fact and conclusions of law in accordance with Rule 52(a) of the Federal Rule of Civil Procedure.

Settle judgment in accordance with this memorandum of decision on two days' notice.


U. S. D. J.

1
2 International Arrivals Building.

3 Q What were your duties?

4 A My duties at that time were to collect revenue
5 for the U.S. government and also to seize contraband.

6 Q Do you recall the seizure of articles of
7 jewelry and clothing which are involved in this action?

8 A Yes, I do.

9 On the day in question, September 11, 1968, I was
10 assigned to secondary baggage inspection at John F. Kennedy
11 Airport. I was handling at the time of the seizure TWA
12 Flight 711, which was arriving from London, England.

13 At the time I first noticed Mrs. Senz, she had pre-
14 sented herself to the control inspector who was located at
15 the gate, at which time she was diverted into my examina-
16 tion area or my examining belt for a thorough baggage
17 inspection.

18 She handed me her declaration and I noticed that
19 there was nothing declared thereon and I asked her if she
20 had purchased any items abroad during her recent trip,
21 including any items which she thought did not have to be
22 declared.

23 She indicated that she had. I returned her declara-
24 tion to her and she made some notations on the declaration.
25 I believe she included at that time pieces of wearing

A 37

1
2 apparel, two or three of them.

3 After amending her declaration, she returned to me
4 and I began the baggage examination. I examined one piece
5 of luggage, and I then asked her if I could see her
6 articles of jewelry, if she had any. She presented them
7 to me, and upon examination, I noticed that or it appeared
8 to me that some of the items were foreign or of foreign
9 origin. It was apparent that on one of the pieces the
10 words "Cartier of Paris" was stamped and on another it had
11 the foreign marking for gold, 750, which indicated to me
12 that it was a foreign-made piece of jewelry.

13 At that point I summoned Supervisory Officer
14 Nardowitz, who responded and also examined the jewelry. He
15 confirmed my initial suspicion that some of the items were
16 foreign, and we both continued with an examination.

17 Thereupon, Mrs. Senz stated that Item No. 7, which
18 is listed on the government's schedule, had been purchased
19 abroad to replace an item of jewelry that was lost, and
20 this particular item, Item No. 7, that is, was a brooch
21 and had not been declared on her customs declaration.

22 She stated that Item No. 6 on the government's
23 schedule, she wasn't sure whether or not that had been ever
24 declared and -- I am sorry. that's No. 8. And regarding
25 items no. 7, 6 up to number -- 1 through 6 on the

MR. ROSENTHAL: Let me separate this.

May I have this report of seizure marked for identification.

THE COURT: Let it be marked as Government's Exhibit 2.

THE CLERK: So marked as Government's Exhibit 3 for identification.

(So marked.)

Regarding Item No. 8 on the government's schedule, Mrs. Senz indicated that she was not sure whether or not this item of jewelry, which is a pair of earrings, had ever been declared before, and regarding Items 1 through 6, which is the balance of the seized items, Mrs. Senz stated that on -- whenever she came into the country with her husband from trips abroad, he would tell her to keep her mouth shut, stand aside and that he would do all the declaring and as far as those items were concerned, she was not certain whether or not they had ever been declared.

Supervisory Officer Nardowitz ordered that the investigation continue in a private search room, and thereafter we took all the baggage that Mrs. Senz had with her, the items of jewelry, the clothing, and brought it into a private search room.

In addition, we found the items of clothing, which

1
2 are items 9 and 10 on the government's schedule, and Mrs.
3 Senz was wearing Item No. 11, a green three-piece suit that
4 had not been declared and which she stated had purchased
5 abroad.

6 Supervisory Officer Nardowitz ordered that the items
7 which we found here and that are listed -- ordered these
8 items seized for payment of duty; stated to Mrs. Senz that
9 she was entitled to a hearing and that if she wished further
10 information, she should call one of our supervisors at the
11 airport the next day.

12 Q Did Mrs. Senz ever declare any of the arti-
13 cles that were seized prior to the time of their being
14 submitted to you?

15 A When Mrs. Senz handed her customs declaration to me,
16 there were no items listed on that declaration, and after I
17 questioned her about any items purchased abroad, she did
18 amend her declaration by including, I believe, three items
19 of clothing. No items of jewelry were listed on the amended
20 declaration and, as a matter of fact, she was given a
21 clear pass or a free pass to proceed out of the airport by
22 the primary customs inspector which indicated that she did
23 not declare anything to him at the initial inspection
24 station.

25 Q Did she ever say whether or not her husband

1
2 had ever declared any of these articles at a previous time?

3 A Well, she did mention that on prior occasions, she
4 did come into the country with her husband, he told her that
5 he would take care of all of the declaring and she wasn't
6 sure whether or not some of the items that we had seized
7 were declared by him. However, it was our belief that
8 these items were of foreign origin.

9 Q Did you make out a report with regard to
10 this seizure?

11 A Yes, I did, sir, immediately after the seizure.

12 Q Are you required to do so?

13 A Yes, I am. Whenever a seizure is made, be it clothing,
14 jewelry or narcotics, any type of seizure of contraband,
15 a report is required.

16 Q I show you Government's Exhibit 3 for ident-
17 ification, and ask you if that is that report?

18 A Yes, it is.

19 THE WITNESS: And, your Honor, my signature
20 appears on the bottom of the report.

21 THE COURT: Show it to Mr. Cometa and
22 to Mr. Fox.

23 Maybe you better Xerox it.

24 THE WITNESS: I have a Xerox copy. That's
25 my report, and on the second page is the schedule

1
2 THE WITNESS: That's correct, your Honor.
3 Immediately on seizure, I fill out the face of
4 the report which indicates the items seized and
5 the description, and on the back of the report
6 or an additional copy I indicate exactly the
7 facts and circumstances of the seizure.

8 THE COURT: Do you do it routinely in
9 every seizure?

10 THE WITNESS: Yes, every seizure.

11 THE COURT: Offer it again.

12 Any objection, gentlemen?

13 MR. FOX: No objection.

14 THE COURT: Let it be marked.

15 MR. ROSENTHAL: I offer Government's
16 Exhibit 3 in evidence.

17 THE CLERK: Government's Exhibit 3 pre-
18 viously marked for identification, now marked
19 in evidence.

20 (So marked.)

21 Q At the time that you spoke to Mrs. Senz, did
22 she ever make the statement that prior times she and her
23 husband used to come into the country that her husband
24 would tell her to shut up and stand aside?

25 A Yes, she did during the course of the examination.

1
2 of those items.

3 THE COURT: Motion denied. I think when
4 an expert looks at something he's been dealing
5 in for a long time he knows there is a certain
6 workmanship, certain look that's sometimes in-
7 definable, he knows even those similar items
8 made under similar design, he knows it's not
9 domestic that it's foreign, and I think there
10 is enough in the record to show at least that
11 the Government has made out a prima facie case
12 that items 1 and 4 were of foreign origin.

13 MR. COMETA: May I proceed on the
14 defendant's case and call Harriet Senz to the
15 stand.

16 H A R R I E T S E N Z , having been duly sworn by
17 the Clerk of the Court, testified as follows:

18 DIRECT EXAMINATION BY

19 MR. COMETA:

20 Q Are you the wife of Ira Senz?

21 A Yes, I am.

22 Q Does Ira Senz reside in this country?

23 A Yes, he does.

24 Q Does he also have a foreign address?

25 A Yes.

1
2 Q What is his address?

3 A Hotel de Paris, Monte Carlo.

4 Q Are you a New York resident?

5 A Yes.

6 Q Where do you reside?

7 A 200 Central Park South, New York City.

8 Q Tell the Court when you were married
9 to Ira Senz?

10 A Ira Senz and myself were married in June of
11 1955.

12 Q Where were you married?

13 A We were married in Woodstock, Vermont.

14 Q And sometime after your marriage and
15 until your separation in 1968, did you spend long
16 periods of time outside the country?

17 A Yes, we did. We spent, I would say most of
18 the year, we were here about a month or two months.

19 Q And during the month or two that you
20 were in the United States, did you reside on Central
21 Park South in the latter years?

22 A Yes.

23 Q And earlier did you reside in Manhattan?

24 A Yes, in Manhattan.

25 Q And was there a time in your marriage

1
2 that you lived in Europe these nine or ten months,
3 more than any other time in the earlier stages of
4 your marriage? Did you live in Europe?

5 A No, our visits weren't as long and later on
6 when my husband became more affluent we spent more
7 time.

8 Q What does your husband do?

9 A Real estate buildings.

10 Q Does he have a foreign holdings also?

11 A Yes.

12 Q Together with New York holdings?

13 A Yes, he has.

14 Q Now, during most of 1960's did you spend
15 large portions of your time in Europe?

16 A Yes, we did, a lot of time in Europe.

17 Q In France?

18 A Yes.

19 Q In Germany?

20 A In Germany?

21 Q England?

22 A Yes.

23 Q North Africa?

24 A Yes.

25 Q You visited and lived in all these places?

1
2 A Visited some and lived in others.

3 Q Now, on September 11, 1968 you recall
4 that you debarked a TWA flight 711 from London to
5 JFK, did you not?

6 A Yes.

7 Q You landed at JFK airport?

8 A Yes.

9 Q Will you tell the Court what happened
10 to you from the Customs point on?

11 A Well, as I came through Customs, you pass
12 through a desk similar to the one where you are standing,
13 they check your passport, that's all they do they check
14 the passport. Then you go immediately, when I passed
15 that desk you find a conveyor belt that's empty, that's
16 at Kennedy Airport, so I found a conveyor belt that
17 was empty.

18 Q You found Mr. Terrano's conveyor belt
19 or did somebody lead you to that belt?

20 A I walked to the belt.

21 Q Did someone tell you to walk to any
22 particular belt?

23 A Yes, there are always Customs men assisting.
24 They more or less would indicate where to go.

25 Q Did you go to Mr. Terrano's belt?

1 A Yes.

2 Q Did he look through your baggage?

3 A He looked through them cursory, usually around
4 the edge of the bag like that (indicating). He had
5 me open up my makeup case and he didn't ask me to
6 open my handbag at all.

7 Q In the twelve thirteen years that you
8 were married and living with Ira Senz, you are still
9 married to him?

10 A Oh yes.

11 Q You made various trips in and out of
12 the country?

13 A Constantly.

14 Q And your passport indicates that you
15 made many trips?

16 A Yes.

17 Q Did Mr. Senz usually accompany you
18 into the country?

19 A Oh yes, my husband did everything. I was more
20 or less -- my husband -- it was kind of a Svengali
21 relationship.

22 Q Did he take care of Customs?

23 A Everything.

24 Q Whatever else had to be done coming into
25

1 the country?

2 A Yes.

3 Q On September 11, 1968, you were alone,
4 were you not?

5 A Yes, I was.

6 Q Were you in fact at that point leaving
7 your husband?

8 A Yes, my husband had thrown me out.

9 MR. FOX: Objection.

10 THE COURT: I'll allow it. I want to
11 stay away from the matrimonial action, that
12 belongs in the State Court. Any statements
13 made here concerning fault or ground for
14 separation for divorce will be deemed
15 extraneous.

16 MR. COMETA: My questions are only as
17 to the state of mind during the next three
18 hours, or whatever the time was at the air-
19 port and should not in any way reflect on the
20 issue of guilt.

21 MR. ROSENTHAL: I object to the
22 relevancy of it.

23 THE COURT: I don't know. I'm just
24 thinking out loud. At this point I don't know
25

1
2 a knowing waiver.

3 MR. COMETA: Perhaps, so I can eliminate
4 any confusion on the nomenclature, it may very
5 well be a state of limitations problem.

6 MR. ROSENTHAL: I will note my objection
7 to the question.

8 THE COURT: I don't know if it's relevant.
9 I'll take it.

10 Q What was your frame of mind, were you
11 upset?

12 A I was terribly upset. I was so upset I didn't
13 know that I was walking, whether I was flying --

14 THE COURT: What does this have to do
15 with waiver?

16 MR. ROSENTHAL: I'm going to object,
17 Your Honor.

18 MR. COMETA: On direct examination Mr.
19 Terrano made certain statements with respect
20 to statements made by this witness during
21 an interrogation period. I think, I certainly
22 --

23 THE COURT: You mean on admission? I'll
24 take state of mind on admissions, on that issue
25 I'll allow it.

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Q Were you asked certain questions at the belt?

A Yes, I was but not by Mr. Terrano.

Q Did you come into the country at that timewith jewelry?

A I came into the country, yes, with jewelry.

Q Did you carry a green jewelry roll with you as you always do?

A Yes.

Q Did you take into the country on September 11 the eight pieces now marked as Government's Exhibit 1?

A Yes.

Q And were they in this jewelry roll?

A Yes, they were and also a little pouch that I carry.

Q Did you take into the country at that time other items of jewelry?

A Oh yes, lots of jewelry. My husband liked to buy jewelry for me.

Q And during the course of your marriage he bought you jewelry?

A Yes, he loved to buy jewelry for me.

Q Did he buy Defendant's Exhibit D for

1
2 you?

3 A Yes.

4 Q Did you come into the country with this
5 bracelet?

6 A Yes.

7 MR. ROSENTHAL: The jewelry in the case
8 is the particular jewelry marked in evidence.

9 THE COURT: I'll allow it, Mr. Cometa
10 wants to show that Mr. Lubrano is not an
11 expert but Mr. Cometa wants to prove it.

12 MR. COMETA: I want to show that this
13 lady came into the country with any number
14 of pieces of jewelry while many of them were
15 obviously foreign. The Government selected
16 eight rather than twenty-eight.

17 THE COURT: You want him to enlarge
18 the forfeiture charge. Go ahead.

19 MR. COMETA: In that case, if Your
20 Honor is cautioning me in connection with a
21 seizure made in 1968, the Government would
22 still have an opportunity based on this wit-
23 ness's examination to enlarge its forfeiture
24 by anything the witness may say in this pro-
25 ceeding. I would be forced to conclude my

1
2 examination on the basis of what Your Honor
3 has just cautioned me of.

4 THE COURT: I think that's a possibility.

5 Q Where was the jewelry in question found?

6 A The jewelry in question, it was found at the
7 very bottom of that large bag over there which I
8 always carried. The jewelry was very good jewelry.
9 I put it at the very bottom. I put perfume bottles
10 on top. I always carried it that way.

11 Q You answered the question.

12 Did Mr. Terrano ask you whether you had
13 any jewelry with you?

14 A Mr. Terrano did not.

15 Q Did Mr. Terrano take out of your bag
16 any jewelry?

17 A Mr. Terrano did not.

18 Q You heard Mr. Terrano testify on direct
19 that he asked you whether you brought any jewelry in
20 with you and his report so states. Did Mr. Terrano
21 ask you any question concerning jewelry?

22 A Mr. Terrano did not.

23 Q Did someone come along after Mr. Terrano
24 completed his inspection of your baggage?

25 A Yes.

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Q Prior to that someone coming along, did Mr. Terrano take any jewelry out of your bag?

A No, Mr. Terrano did not look into my bag at all.

Q Did another gentleman come along?

A Yes.

Q Who was he?

A He was another Customs man, he had a jeweler's loop in his hand, he was rather portly an older man.

Q What did he do?

A He came immediately and he had a little slight conversation, something -- like I said I was in a very upset state, he said something to Mr. Terrano and he started immediately to go through my luggage on the belt, very very carefully and he opened everything, and he again opened the makeup case and he kept going through and going through and finally he said, "What is in the handbag?" I said, "Those are my personal effects, things that I usually carry." I opened the handbag, the top, he looked at the top, he just looked. He saw my perfume, personal things, then he said "I want to see more." I took out the things. "I want to see more." I said, "Here." He said "What's that?" I said, "That's my jewelry." He said "Spread

1
2 it out." I had nothing to hide, I spread it out
3 and he looked at it and then the jeweler came over
4 with the loop and he started looking with the loop,
5 this portly gentleman, and he studied, he looked at
6 only certain pieces. He looked at the pieces with
7 stones in them although he left other pieces like
8 this (indicating) with stones in them, he looked at
9 certain pieces.

10 Q Did he ask you any questions about the
11 certain pieces he looked at?

12 A No. He looked at the back for some sort of
13 identification then finally he didn't seem pleased
14 after an hour, it seemed like on the belt -- he said
15 "We are going to a little room" and we went into a
16 little room. By that time I started to cry, I was
17 so upset. I was so upset coming into the country
18 with what had happened with my husband, if anybody
19 looked at me cross I would have cried. So when we
20 were in the little room Mr. Terrano seemed to be a
21 junior, a young man -- it was my impression learning
22 the trade, where the other chap took over with the
23 loop and he wrote down things. He asked me, "Now,
24 what is this and what is that?" He said "I want to
25 see some of your luggage." I think I pulled every-

1
2 thing out of my six pieces of luggage. He kept
3 looking and looking like it was something special
4 that he was looking for.

5 Q Did they take any statements from you?
6 Did they ask you any questions whether duty was liable
7 on any of the items?

8 A The items he selected, he asked me about when,
9 how much is it worth. I believe the first one is what
10 he was writing and I was in such a state I could
11 hardly remember what it was worth. My husband paid
12 for those things. I didn't have to remember anything
13 like that.

14 Q Take a look at the list in front of
15 you, a list that Mr. Lubrano has been testifying from.
16 Were all of the eight items gifts to you?

17 A No.

18 Q Gifts.

19 A By my husband?

20 Q By anyone.

21 A The coral ring, they call it a red stone, that
22 happens to be an Italian core from St. Remo, that was
23 from Mr. Samuel Landow.

24 Q When did he give you that ring?

25 A Approximately in 1962 or '63, around that time

1
2 he bought one for his wife and one for me.

3 Q Now, the item number 4 --

4 THE COURT: Did you tell us where he
5 gav gave you the ring.

6 THE WITNESS: Yes.

7 THE COURT: Where.

8 THE WITNESS: He gave me the ring in
9 Monte Carlo.

10 Q This was given to you in Monte Carlo,
11 when?

12 A I really can't remember. It might have been
13 '62, '63. I'm not quite sure, that's the coral
14 stone, the Italian coral.

15 Q How long were you interrogated at the
16 airport?

17 A In the little room about two and a half to
18 three hours I would say.

19 Q Were you chain smoking?

20 A I don't smoke. I never smoked in my life.

21 Q Mr. Terrano said you were chain smoking.

22 A I heard him say that. I don't smoke. My
23 husband will attest to that, my dentist. I am an
24 opera singer and most opera singers don't smoke, and
25 my father never allowed any of us to smoke.

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Q I ask you to look at the list before you and starting from the top, there is one gold ring set with diamonds. Will you tell us about that ring, what kind of ring is it?

A The gold ring set with diamonds, the way they wrote it here with the blue stone.

Q Yes.

A That's a star sapphire.

Q I believe number 1, the gold ring. Rather than looking at the list will you check the jewelry next to you?

A Number 1 the topaz ring.

Q Rather than getting confused with the list, look in this box, everything is numbered 1 to 8. Take a look at ring number 1, that's a gold ring.

A Ring number 1.

Q Now, will you identify that ring with regard to where it came from and when it was purchased.

A Yes, the ring is turquoise it's set with diamonds, gold 18 karat. It was purchased in France by my husband. We brought it into the country and he paid duty on it, that was February. We were going on a cruise, that was February 1966 when we left Orley Airport, Air France, and we landed and

1
2 that's when he was very proud to show this to the
3 Customs man and he had it in the box and he paid the
4 duty on it.

5 THE COURT: How much did he pay, do
6 you remember that?

7 THE WITNESS: No, that was something
8 that was none of my business.

9 Q You say that he was very proud of that
10 ring and showed it to everyone?

11 A Yes, he showed it to the Customs man.

12 Q This was at JFK in February of 1966?

13 A Yes, I believe so. I remember the particular
14 -- we were stranded in Orley -- they had misplaced
15 our seats, they put us on a charter flight, they
16 gave us first class. My husband thought it was a
17 waste of money to go overseas --

18 Q Have other persons seen you wearing
19 that ring?

20 A I have worn this to the Metropolitan Opera
21 and I've worn it to parties and to restaurants in
22 New York when we went out to dine.

23 Q This was a gift from your husband?

24 A Yes.

25 Q When you came into the country in

DIRECT - SENZ

1
2 February of 1966, did you stay in the country for
3 any length of time?

4 A No, I think about three days.

5 Q Then what did you do?

6 A We left for the Leeward Islands. We chartered
7 a schooner and went to the Leeward Islands. First
8 we got off in Puerto Rico and then Antigua which is
9 out of the country.

10 MR. COMETA: May I have marked for
11 identification, a copy of passport number
12 C262326 made out to Harriet Senz.

13 THE CLERK: So marked Defendant's
14 Exhibit E for identification.

15 THE COURT: Are the records dutiable
16 items kept.

17 MR. ROSENTHAL: I believe they are kept.

18 THE COURT: Back to 1966. Is this the
19 first indication that you have that payment
20 was made.

21 MR. ROSENTHAL: There have been inquiries
22 made.

23 THE COURT: So you know that that is
24 the claim, and a search was made. You are
25 prepared to offer testimony of the records.

1
2 MR. ROSENTHAL: I can. I would need
3 perhaps time to do it.

4 THE COURT: That's what I want to know.
5 If you knew the claim was made why didn't you
6 search the records.

7 MR. ROSENTHAL: We did have a search.
8 The information I have from the original
9 counsel's office was they were negative. I
10 would have to get somebody to testify --

11 THE COURT: Did you make a search.

12 MR. FOX: The search was actually
13 conducted at the insistence of Mr. Rosenthal,
14 we had some colloquy about it on several
15 occasions and we searched Mr. Senz's record
16 first, his insurance brokers. Some evidence
17 will be put in today that we obtained from
18 the insurance broker and was subpoenaed by
19 Mrs. Senz.

20 THE COURT: That's proof that he
21 insured it. Do you have any proof of payment?
22 Was it paid by check or cash.

23 THE WITNESS: No, he never let me in
24 on anything.

25 THE COURT: Is Mr. Senz in the country.

1
2 MR. FOX: No, he's not.

3 THE COURT: Does he come into the
4 country.

5 MR. FOX: He was in earlier this year.
6 We may have to adjourn it until a time that
7 he comes in.

8 THE COURT: If the wife says he paid
9 it why shouldn't he come in.

10 MR. FOX: We'll be more than glad to
11 have him come in.

12 THE COURT: I would imagine the party
13 himself who makes a claim to the item should
14 be interested in proving that it was paid so
15 that the items aren't forfeited. If he doesn't
16 come in then I think I may make the usual
17 inference, certainly against that party.

18 MR. FOX: In view of Mrs. Senz's
19 testimony, she was there.

20 THE COURT: She says that she stood on
21 the side, she didn't see the transaction. This
22 was all done in the privacy of the International
23 Arrivals Building where things are done so
24 secretly, where you go on the side and whispered,
25 she doesn't know if it's paid by check or cash.

I assume you have no check to show for it.

MR. FOX: No.

THE COURT: So his claim he paid in cash. I think he ought to come in and say so. All right.

DIRECT EXAMINATION CONTINUING BY

MR. COMETA:

Q Now, Mrs. Senz, will you take a look at Defendant's Exhibit D for identification. Could you tell the Court when you came into the country in February for the first time?

A Yes, February 7 admitted New York 1966.

THE COURT: So that's the day you say your husband paid the tax on this Persian turquoise ring.

THE WITNESS: Yes, Your Honor.

THE COURT: That certainly pinpoints it.

Q Now, you left the country, you say you went to the Leeward Islands?

A Yes, we returned to the United States February 20, 1966. I also remember I had to be revaccinated when I came back.

Q Subsequently did you leave the country

1
2 again?

3 A Oh yes. We left as we usually always did.
4 Our life was a pattern, very strict one, October
5 1, 1966 --

6 Q October 1966 you were admitted back
7 into the country; is that correct?

8 A Admitted.

9 Q Which means that you had left the
10 country.

11 A After we came back from the cruise -- his
12 leaving date is always May 1st.

13 Q For where?

14 A For Europe.

15 Q And then subsequently you came back into
16 the country in the fall of 1966?

17 A Yes.

18 Q And does your passport indicate as
19 much?

20 A Yes.

21 Q Or the copy thereof?

22 A Yes.

23 Q Where is the original of this passport?

24 A The original of the passport is in the files
25 of Mr. Ascher B. Lans. It was Lans & Fink at that time,

1
2 now it's Lans, Fineberg & Cohen, 360 Lexington Avenue.

3 Q Now, when you came into the country on
4 February 7 with this turquoise ring and then left the
5 country immediately thereafter, a few days thereafter
6 did you take the ring with you on that cruise?

7 A No.

8 Q Where did you leave it?

9 A I left it in the apartment.

10 Q When you left the apartment on or about
11 May 1st as you testified, did you take the ring with
12 you at that time back to Europe with you?

13 A Oh yes, my husband liked me to show off the
14 jewelry, of course.

15 Q When you traveled back and forth to
16 Europe you took essentially all of your jewelry?

17 A Yes.

18 Q In that ring bag?

19 A The roll and also the little satin bag, and
20 then I put this plastic -- some things in a little
21 plastic bag.

22 Q When you returned on October 1, 1966,
23 did you bring that turquoise ring and your other
24 jewelry back into the country with you?

25 A Yes. Oh yes, the jewelry always carried with

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me except on the cruise, where it's a ship and salt water, that would be foolish because you are dressed in a bathing suit all day, one doesn't wear jewelry on chartered boats.

Q Were you in New York for the opera season in 1966?

A Yes, we were.

Q When did you subsequently leave the United States after your return in 1966?

A Yes, thereafter '66, I was operated on that year, very serious operation, after the cruise. We left again, we left around November of '66. We went to England, London first.

Q Was that the last exit from the United States prior to your coming back in September of 1968?

A Yes, that was the last time I was in the country.

Q Now, were you in the habit of wearing expensive jewelry every time you went to the Metropolitan?

A Especially, that's the place to wear it.

MR. ROSENTHAL: Objection.

THE COURT: I'll allow it.

Q Now, I would like to ask you about number 2 in that box, which is a star sapphire ring. Did you

1
2 take a look at number 2? Will you identify number 2?

3 A Yes, it's a star sapphire ring and it's set
4 in platinum with two triangular cut diamonds.

5 Q When was the star sapphire purchased?

6 A My husband bought the sapphire in Cairo,
7 Egypt on our honeymoon.

8 Q He purchased it in Cairo, Egypt?

9 A On our honeymoon. We took our honeymoon
10 around the world in 1965.

11 Q And the stone was subsequently set?

12 A Yes.

13 Q Do you recall where it was set?

14 A In Tiffany & Company, New York.

15 Q And you have worn it often?

16 A Oh yes, this was more or less my engagement
17 ring that I would wear with my diamond wedding band.

18 Q Prior to this trial did you make a list
19 of the entries into the country from the time of your
20 marriage, or roughly at that time through 1966?

21 A Yes.

22 Q Was this list prepared for you, or did
23 you assist in its preparation?

24 A I assisted in its preparation from passports.

25 Q You reviewed your passport which you

DIRECT - SENZ

1
2 have brought with you?

3 A Except the one I didn't have.

4 THE COURT: Mr. Rosenthal, would you
5 look and stipulate if Mrs. Senz would
6 testify to these exits and entrances into
7 the country, to save all the testimony. We
8 can always check it back and verify with the
9 passports and if it's wrong --

10 MR. ROSENTHAL: Just -- there is the
11 date that she came in --

12 THE COURT: Just the entries.

13 MR. ROSENTHAL: Just the entries. For
14 that purpose, yes.

15 THE COURT: Let it be marked for identi-
16 fication.

17 The stipulation, Mrs. Senz would testify
18 that she left the country on those dates.

19 Mr. Rosenthal will be given an opportunity
20 to examine the passport if it's in error he'll
21 bring it to the Court's attention.

22 THE CLERK: So marked as Defendant's
23 Exhibit F for identification.

24 Q Now, does Defendant's Exhibit F indicate
25 that you were admitted to the country on September 5,

1
2 1955?

3 A Yes.

4 Q And admitted September 2, 1956; ad-
5 mitted August 1957; admitted July 16, 1960?

6 A That is correct.

7 Q And on July 29, 1961?

8 A That's correct.

9 Q And January 3, 1962?

10 A Yes.

11 Q And August 5, 1962?

12 A Yes.

13 Q September 6, 1964?

14 A That is correct.

15 Q January 19, 1965?

16 A That's correct.

17 Q And then referring to the copy of
18 your last passport, were you also admitted on February
19 7, 1966?

20 A Yes.

21 Q And on February 20, 1966?

22 A That is correct.

23 Q And on October 1, 1966?

24 A Yes.

25 Q Were you admitted also on January 4,
1963?

1
2 A Yes.

3 Q And on September 6, 1966?

4 A That is correct.

5 Q Were you also admitted on November 22,
6 1965?

7 A That is correct.

8 Q Are there other admission dates which
9 appear to be blocked out?

10 A Yes.

11 MR. COMETA: I would like to state
12 that there are other obvious admissions on
13 this copy which because there are so many are
14 obliterated.

15 Q Based upon your recollection coming in
16 and out of the country, would you say you were back
17 into the country during the course of your marriage
18 and prior to September 11, 1968 at least a dozen
19 times?

20 A I would think more than that actually.

21 Q Did you take your jewelry with you
22 whenever you came back into the country?

23 A Always.

24 THE COURT: Did you have all this
25 jewelry with you on all the occasions that

1
2 you re-entered the country.

3 THE WITNESS: Well, Your Honor, we
4 didn't buy it all one trip.

5 THE COURT: When did you purchase the
6 last item of jewelry in this 1 to 8.

7 THE WITNESS: The last item my husband
8 gave me, the last item I believe that was this
9 one (indicating).

10 THE COURT: The Persian turquoise ring.

11 THE WITNESS: Yes.

12 Q When was that?

13 A He gave it to me -- I brought in 1966 -- he
14 must have bought it for me -- some of the things we
15 left at Cartier in Monte Carlo. He must have bought
16 this in 1965.

17 THE COURT: So would you say from 1965
18 on he brought all these items, the eight
19 articles into the country with you on every
20 occasion that you re-entered.

21 THE WITNESS: Yes.

22 THE COURT: Did any Customs officer ever
23 examine it?

24 THE WITNESS: Whenever I came in with
25 my husband, if he had something to declare --

1
2 THE COURT: On the occasions that you
3 re-entered.

4 THE WITNESS: You mean the last time.

5 THE COURT: Or with your husband. You
6 said you had this in a jewelry roll. Did any
7 Customs officer ever open the jewelry box.

8 THE WITNESS: This is the very first
9 time it happened, Your HOnor.

10 DIRECT EXAMINATION CONTINUING BY

11 MR. COMETA:

12 Q Now, will you look at number 3 on that
13 list, which is a ring. Would you describe it for us?

14 A You mean the Burmese star ruby?

15 Q Now number 3, where was that purchased
16 and when?

17 A My husband bought the Burmese ruby in Cashmir,
18 India on our wedding trip around the world in 1956
19 on a honeymoon.

20 Q The same time he bought the other?

21 A Yes; and this is called, it's a very rare stone
22 it's called a pink star sapphire, he bought that, the
23 stone in India.

24 Q Now, wait a minute. The witness is
25 referring -- when she talks about the clasp, to a

1
2 necklace of pearls which is number 6 on the Government's
3 list. Now, let's go over those three items again.
4 The clasp on that pearl necklace contains a sapphire,
5 did you say?

6 MR. ROSENTHAL: Which number is the
7 topaz?

8 MR. COMETA: All right, the topaz,
9 go back to the topaz.

10 THE WITNESS: The Customs man wrote it
11 out as the brown stone, it's a smokey topaz.
12 This happens to be a particularly nice one
13 because of its cut and because of its brilliance.

14 Q The topaz was purchased where?

15 A The topaz was purchased, the stone itself in
16 Kashmir, India in 1956 on our honeymoon.

17 Q All right, the clasp on number 6 which
18 is the string of pearls, you say contains a pink star
19 sapphire?

20 A Which is a very rare stone.

21 Q Where was that star sapphire bought?

22 A Also in Kashmir, India on our honeymoon in
23 1956 around the world.

24 Q With respect to the third item which
25 you already identified which one was that?

1
2 A The Burmese star ruby, the stone was purchased
3 in Kashmir, India on our honeymoon in 1956.

4 Q So those three items were purchased
5 twelve years before the siezures, the stones?

6 A Yes.

7 Q Now, where were those last two items
8 set, the topaz and the clasp on the pearls?

9 A The topaz was set in Tiffany's, I believe
10 originally and the pink star sapphire was set, that
11 was set in Cartier of Paris.

12 Q Now, have you worn those stones both
13 here and abroad?

14 A Oh yes.

15 Q And were you wearing those stones many
16 years before the siezure?

17 A Oh yes, many years because they were set
18 originally. They were all set here. When we came
19 back from the honeymoon my husband wanted me to wear
20 them as soon as possible.

21 Q I asked you to look at a picture -- may
22 I have the picture identified -- mark it for identifi-
23 cation.

24 THE CLERK: So marked Defendant's

25 Exhibit G.

1
2 Q Can you identify the ring you are
3 wearing in Defendant's Exhibit G?

4 A Yes. I'm wearing this ring, the Burmese
5 star ruby.

6 THE COURT: Identify it by the number.

7 THE WITNESS: Forgive me. I know the
8 jewelry. It's number 3.

9 Q And when was that picture taken?

10 A This picture, as you can see by the hairdo
11 and the dress, it was taken sometime ago. It was
12 taken in a club in Paris called Novie.

13 Q Would you say the picture was taken
14 prior to 1960?

15 A Oh yes.

16 MR. COMETA: Will you please mark the
17 next picture.

18 THE CLERK: Photograph marked Defendant's
19 Exhibit H for identification.

20 Q Can you identify any of the jewelry
21 you are wearing in Defendant's Exhibit H?

22 A I'm wearing the star sapphire where the light
23 caught the asterism, that's number 2.

24 Q And would you be able to estimate when --

25 THE COURT: Is that marked for identification.

1
2 Q Would you be able to identify approxi-
3 mately when Defendant's Exhibit H for identification
4 was taken?

5 A Well, you can see by the cut of my husband's
6 suit, he dresses beautifully, that looks old-fashioned,
7 this was taken in Venice, I remember and it must have
8 been in the early 1960's.

9 Q Where was the star sapphire set?

10 A It was set in Tiffany's as I told you. I have
11 the microfilmed sales slip.

12 MR. COMETA: Would you mark this picture
13 Defendant's Exhibit I for identification and
14 the one after that Defendant's Exhibit J.

15 THE CLERK: So marked.

16 Q Would you take a look at Defendant's
17 Exhibit J for identification, can you identify the
18 ring that you are wearing in that picture?

19 A I'm wearing the topaz. I'm also wearing the
20 bracelet that we brought today.

21 Q That topaz was also purchased in 1956?

22 A Yes, that was in India on our honeymoon. He
23 bought the stone and that was set here.

24 Q I ask you to look at Exhibit I for
25 identification?

1
2 A Yes, that's a smokey topaz and the two
3 bracelets from Morocco.

4 Q Confine yourself to the smokey topaz,
5 is the setting different?

6 A Yes, it is different.

7 Q Was the topaz reset after it was
8 originally set?

9 A Yes, it was reset.

10 Q Would you recall where it was reset?

11 A It was reset at Cartier.

12 Q Where?

13 A In Paris. My husband designed the setting.

14 Q Himself?

15 A Yes.

16 Q J for identification, would you estimate
17 the age of that picture?

18 A Well, that again was in Venice, I would say
19 in late 1950.

20 Q And looking at the Defendant's Exhibit
21 I, would you estimate?

22 A That's about 1967, I think.

23 Q Where?

24 A No, this is Capri.

25 THE COURT: Make that all available to

1
2 Mr. Rosenthal.

3 MR. COMETA: Yes, Your Honor, I will.

4 Q Now, Mrs. Senz, going down that list,
5 we have already gone down the first three and
6 the pearl necklace which is item number 6 on
7 the list, do you recall how you first came into
8 possession of the pearl necklace?

9 A My husband -- I have many sets of pearls, he
10 wanted a fine set so he had his cousin Mr. Louis
11 Bergman bring back from Europe the pearls for him.
12 He specified what type he would like. He was going
13 to Japan and he had them brought back for my husband.
14 Mr. Bergman brought them back.

15 Q When Mr. Bergman presented those pearls
16 to you, where were you?

17 A I was in New York, the United States.

18 Q Were the pearls handed to you in strung
19 form or individual pearls?

20 A They were handed to me in strung form but with
21 a different clasp.

22 Q And it was thereafter that that star
23 sapphire that was purchased in 1956 was added to the
24 pearl necklace?

25 A It was too small for my finger, he said let me

1
2 make a clasp of it for your pearls, that's why he
3 specified getting some pearls, that's why he had
4 his cousin --

5 Q Now, would you look at item number 7,
6 the broach?

7 A Your Honor, number 7 --

8 Q With respect to item 7 would you give
9 us the history of that broach?

10 A Originally a similar broach than this my
11 husband bought for me in Cartier in New York, and he
12 bought it and I wore it for many years. It's a little
13 different, the leaves would fall and close and I lost
14 it in Venice, Italy, I believe in 1964. I lost it and
15 then my husband took the insurance money and he had it
16 remade almost as closely to the other one as he could,
17 he had it remade for me.

18 Q Is that what you are holding in your
19 hand now?

20 A Yes.

21 Q Item number 7?

22 A Yes, item number 7.

23 Q And where was it remade?

24 A It was remade, of course Monte Carlo in Cartier.

25 Q Did you bring it back to the country on

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September 11, 1968?

A Yes, I did.

Q Did you bring it back into the country in 1966?

A I'm almost sure that I did, I would say to the best of my knowledge.

Q Do you recall whether anyone commented about that broach?

MR. ROSENTHAL: Objection.

THE COURT: Overruled, I'll allow it.

A I do remember at the opera -- because some friend had said something "Oh Harriet it looks larger than the other one."

Q Were matching earrings made for that pin?

A No, the earrings were made to match the other pin that I lost, so I had the earrings and then I lost the pin.

Q Where were the earrings made?

A The earrings were made at Cartier too.

Q You testified that the original Cartier broach was made in New York; is that correct?

A Yes.

Q Were the earrings also made in New York?

A It gets a little bit foggy. I do remember that

1
2 I wasn't pleased how this came out because it wasn't
3 exactly as we had designed it, but the earrings are
4 very much alike, it must have been made by Cartier.

5 Q May I have a Cartier bill?

6 A I said Monte Carlo, Paris because they belong
7 to one another, it's a subsidiary of the Cartier in
8 Paris.

9 MR. COMETA: Mark that Cartier bill.

10 THE CLERK: Bill marked Defendant's
11 Exhibit K for identification.

12 Q Would you look at Defendant's K for
13 identification, a Cartier New York bill, does this
14 help you to indicate when the original diamond flowered
15 broach was purchased?'

16 A Yes, September 1959. We still lived on 46th
17 Street.

18 MR. ROSENTHAL: I object to that, that
19 has nothing to do --

20 THE COURT: Overruled. There may be
21 some relationship. She said the earrings were
22 made at that time too.

23 MR. COMETA: Precisely, Your Honor.

24 Q Were the earrings made approximately the
25 same time?

A They were made to match. My husband wanted

earings to match the broach.

THE COURT: WERE the earings made by Cartier in New York or Cartier in Paris.

THE WITNESS: First the pin was purchased at Cartier and then he decided I should have earings to match the broach.

THE COURT: Where were the earings made.

THE WITNESS: To the best of my knowledge -- there I get a little bit foggy because we were having troubles then.

THE COURT: Do you recall whether they were made the same time.

THE WITNESS: They weren't. I don't believe they were made exactly the same time.

THE COURT: About how far apart, weeks, days, months.

THE WITNESS: I think it was a matter of months.

THE COURT: Does the bill say they are earings.

MR. COMETA: The bill only relates to the 18 Karat gold flowered -- I'm trying to establish the earings with respect to wearing

1
2 and bringing in and out of the country.

3 THE COURT: With a woman who is in
4 and out of the country and spends just a
5 few days here, if the earrings followed the
6 pin by a few months, it's highly unlikely
7 that they were made here.

8 MR. COMETA: If they were made abroad
9 I would like to be able to show they were
10 reimported into the country.

11 THE COURT: That's a different claim.

12 MR. COMETA: If it fails on one I don't
13 think it fails on the other.

14 Q With respect to the earrings you said
15 they might have been made about a month after the
16 broach?

17 A A month or longer after the broach. You know
18 the passage in our traveling back and forth and near
19 the end when we were not getting along --

20 Q Did you wear the earrings in this country
21 on occasion?

22 A Oh yes, I remember specifically wearing -- I
23 must have because I remember specifically wearing the
24 new set to the opera.

25 Q Now, were all of these items insured by

1
2 your husband through a particular insurance broker?

3 A He always had the same insurance broker that
4 insured my furs and some jewelry of his.

5 MR. COMETA: Now, Your Honor, I would
6 like to introduce for identification, at this
7 point endorsement attached to insurance policy
8 only for the purpose of establishing that at
9 least on the date of the insurance in question,
10 the jewelry in question was owned by Mrs. Senz.

11 THE COURT: Well, you say introduced
12 for identification. You can mark for identifi-
13 cation and introduce in evidence.

14 MR. COMETA: Well, may I first --

15 THE COURT: Do you have any objection
16 to it being marked in evidence.

17 MR. ROSENTHAL: Insofar as it's being
18 introduced to establish -- anything other
19 than a -- showing that the jewelry was owned
20 that would be one thing where it's owned to
21 that extent I would object.

22 THE COURT: Mr. Cometa says he wants to
23 offer some proof of ownership because it isn't
24 always true that the owner insures, but it's
25 most likely that the owner insured jewelry.

1
2 Now, if someone came from the insurance
3 company and said that this was made in the
4 regular course of business I assume that Mrs.
5 Senz would know that too, so to me it seems
6 it's little grounds for objection. Do you
7 have any objection.

8 MR. FOX: No.

9 THE COURT: Let it be marked in evidence.

10 MR. COMETA: Then, Your Honor, I will
11 mark these schedules in evidence if you'll just
12 give me a moment to get my wits about me.

13 THE COURT: Would you like to suspend
14 for a few moments.

15 MR. COMETA: Yes.

16 (Whereupon a recess was had.)

17 (After recess.)

18 THE CLERK: The endorsement on insurance
19 policy marked Defendant's Exhibit L in evidence.

20 THE COURT: Mrs. Senz will you take the
21 stand please.

22 H A R R I E T S E N Z , having previously been duly
23 sworn by the Clerk of the Court, resumed the
24 stand and testified as follows:

25 MR. COMETA: Your Honor, we have marked

MR. COMETA:

Q Mrs. Senz, are you familiar with your husband's policy regarding the insurance of the jewels that he bought for you from time to time?

A No, I'm not familiar with anything at all. He kept me in the dark. He didn't want me to know.

Q You do know, do you not, that the jewels have been insured?

A Oh yes.

Q Do you know whether it was customary for your husband to insure the jewels at the moment they were purchased?

A Yes, he was a most meticulous man.

Q I show you an item marked pair of earrings, gold flower and diamonds, can you relate that item to one of the items on the list in front of you? I think you better look at this list.

THE COURT: Did you have any other earrings at that time that might fit into the same general classification and description.

THE WITNESS: When you were questioning before --

THE COURT: You should only answer the questions that are asked. Your lawyer loses

1
2 control. That's what he meant when he said
3 I would like to lead you.

4 THE WITNESS: It seems to me that I
5 remember that I lost a pair of gold earrings,
6 and I lost a pair of gold earrings and
7 possibly those could be the ones we were
8 talking about after the pin that you had
9 questioned me on how long after.

10 THE COURT: This endorsement is dated
11 when?

12 MR. COMETA: July 16, 1966.

13 THE COURT: Now, there is a reference
14 in that policy and it describes the earrings
15 a little different than you describe it, but
16 the men who write up the endorsement might
17 see it a little differently. I want to know
18 whether it's the same set of earrings that
19 are marked number 8.

20 Q Well, may I ask this. Did you yourself
21 prepare in letter form an additional list at some
22 time during these proceedings which corresponds with
23 the Government's list?

24 A Yes, I prepared several lists.

25 Q Are you looking at a letter in the form

1
2 of a list signed by you? Does that list correspond
3 with the list that the Government has presented?

4 A Yes.

5 Q With reference to the two lists before
6 you, perhaps we can go item by item. So where you
7 say the Government list is insufficient as far as
8 description, perhaps you can refer to your list.

9 THE COURT: I know it's improper.

10 MR. COMETA: And I'll mark it for
11 identification. Everybody will agree it's
12 the same except it's a little more expensive,
13 it's only offered for purposes of cutting
14 this thing short.

15 THE COURT: All right, I'm for that.

16 Does your list more or less fit in
17 with the testimony that Mrs. Senz gave.

18 MR. COMETA: It does.

19 THE COURT: It would summarize it. It
20 might be marked for identification and just
21 to guide, not the evidence, but it might be
22 helpful for that reason.

23 MR. COMETA: It does include items
24 which were never brought into the country,
25 so there are, I think two items on this, jewel

1
2 color and hanging earrings which are in no
3 way applicable in this proceeding.

4 THE CLERK: List marked Defendant's
5 Exhibit M for identification.

6 Q Now, referring to the Government's
7 list and Defendant's Exhibit M, where it's necessary,
8 let's go down the list. This pair of earrings which
9 is number 8 on the list. Are you able to testify
10 whether item number 34 on the endorsement is the same
11 pair of earrings?

12 A Yes, definitely.

13 Q And they were insured as of July 16, 1966?

14 A Yes.

15 Q And they were purchased in 1966, were
16 they not?

17 A Yes.

18 Q Would you now --

19 THE COURT: Were they insured with an
20 American insurance company.

21 MR. COMETA: Commercial Union Insurance
22 Company, Whitehill Agency, Inc.; and the policy
23 number is 131MA25865, and all of the endorsements
24 are from the same carrier.

25 Q Now, Mrs. Senz, will you refer to item

1
2 number 7 on the endorsement, this endorsement dated
3 June 30, 1966, can you identify what ring is being
4 insured?

5 A The star sapphire, the number on it -- you
6 gave it number 2.

7 Q So Government item number 2 is circled
8 item number 7 on the endorsement dated June 30, 1966?

9 A Yes.

10 Q If we may go on to an endorsement dated
11 December 3, 1965. Can you identify any ring?

12 A Oh yes, it must be the turquoise, yes, that's
13 the only turquoise I have. The turquoise is number 1.

14 Q That refers to item number 1 dated
15 December 3, 1965; is that correct?

16 A Yes.

17 Q And it's described.

18 THE COURT: The date of the endorsement
19 is no relationship to the date of purchase.
20 She testified she received this on the honey-
21 moon.

22 MR. COMETA: Oh no, that's these three
23 items. Your Honor, this is the ring which
24 the witness testified was shown to Customs in
25 February of 1966.

1
2 THE COURT: And what is the date of
3 the endorsement.

4 MR. COMETA: 1965.

5 THE COURT: I thought that ring re-
6 ferred to a purchase he made on his honeymoon.

7 DIRECT EXAMINATION CONTINUING BY

8 MR. COMETA:

9 Q With respect to the honeymoon purchases,
10 I show you three items 32, 33 and 34 on an endorsement
11 dated December 12, 1963, can you tell me whether those
12 items are items which you can identify from the Govern-
13 ment's list?

14 A The topaz ring and the star sapphire and the
15 star ruby with the necklace. Item 6 -- item 5 which
16 is the topaz, item 2 which is the star sapphire.

17 THE COURT: That's 1963, that doesn't
18 seem to -

19 MR. COMETA: It does not and Mr. Zieman --

20 THE COURT: I won't bind you by that
21 representation.

22 MR. COMETA: If I may be heard on this
23 issue. We obtained these from Mr. Zieman who
24 insured the Senz's jewelry over a number of
25 years but that coverage stopped about 1966 and

'67. He indicated to me that this was the best he could do in bringing these endorsements out. There is undoubtedly with respect to the earliest purchases made in the '50's, insurance coverage which is not available to us in terms of coverage because they long since have been superceded by later endorsements.

THE COURT: I don't know whether the dates are important. It might be that the latter dates are important, where the jewelry was purchased in 1966 because there the inference may be weaker than jewelry purchased in 1956, that they reentered the country on a number of occasions obviously. I suppose it makes little difference whether it's 1963 or 1956.

MR. COMETA: On the earlier pieces.

DIRECT EXAMINATION CONTINUING BY

MR. COMETA:

Q Mrs. Senz, do you recall coming into the country with your husband on the Queen Elizabeth in 1965?

A Yes, I did.

Q At that time were you in your husband's

1
2 presence when certain declarations were made with
3 respect to items brought into the country?

4 A We lined up at different times for the
5 Customs to check out our passports. He was getting
6 some baggage together in the cabin and then he came
7 later and then I believe -- you understand the
8 initial, under your last name, and that was my only
9 experience on an ocean voyage and that was on the
10 Queen Elizabeth.

11 Q Do you remember when it docked in New
12 York?

13 A I believe it was around September something
14 -- September '65.

15 Q And where were you coming from?

16 A We were coming from -- we boarded Southampton,
17 the Queen Elizabeth, in England.

18 MR. COMETA: May I have this marked
19 in evidence.

20 THE COURT: Do you have any objection,
21 Mr. Rosenthal?

22 MR. ROSENTHAL: No objection.

23 MR. COMETA: Government provided the
24 document, this is a declaration, Customs
25 declaration dated 9/22/65.

1
2 THE COURT: Just the one declaration is
3 being marked.

4 MR. COMETA: Yes.

5 THE COURT: Can that be disengaged, Mr.
6 Rosenthal, from all the other papers.

7 MR. ROSENTHAL: One is just a letter
8 that I received and I see no problem.

9 THE CLERK: So marked as Defendant's
10 Exhibit N in evidence.

11 MR. COMETA: Three sheets of paper,
12 all relating to one entry on 9/22/65.

13 THE CLERK: That's marked Defendant's
14 Exhibit N in evidence.

15 THE COURT: All right.

16 Q Do you recognize the signature on the
17 copy of the declaration?

18 A Yes, that's my husband's signature.

19 Q Where were you at the time the declara-
20 tion was made in September of 1965? Were you there
21 on the dock?

22 A Yes, we were standing under the S.

23 Q Was jewelry shown?

24 A Yes, he showed him -- my husband showed him
25 the jewelry.

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Q The jewelry that was in the roll?

A Pulled it outside, this is the jewelry.

Q Is that the jewelry referred to in terms?

A Personal jewelry. It was taken for granted.

Q Answer the questions and think. Is it your testimony that on September 22, 1965 you came into the United States on board the Queen Elizabeth with that green jewelry case with you?

A Yes.

Q And what was in that green jewelry case?

A My jewelry plus some other cases with my jewelry.

Q When you say my jewelry, are you talking about at least in part the jewelry that is before us in this proceeding?

A Oh yes, in parts.

Q Was this jewelry shown to a Customs agent when you debarked from the Queen Elizabeth?

A He came over and he spoke to my husband "What do you have to declare?" my husband said "Nothing special, some cigars." He said "Anything else?" he said "Her personal jewelry she carries with her all

1 the time."

2 Q And then what happened?

3 A He spoke to my husband, my husband said "Personal
4 jewelry." He showed the Customs man some piece of
5 jewelry he always wears.
6

7 Q Have you ever personally declared any
8 jewelry on entering the country?

9 A I myself, no.

10 Q Did you ever believe that you had any
11 obligation to declare the jewelry which are items
12 1 through 8 before this Court?

13 A I myself did not. I was not allowed to.

14 Q When you entered the country on September
15 11, 1968, did you seek to conceal anything which you
16 believed you should pay duty on?

17 A No, I did not. It was a routine thing like
18 carrying shoes in your suitcase.

19 Q And you carried this jewelry in and
20 out of the country before, had you not?

21 A Yes, so I didn't think anything about it. In
22 fact the declaration business, I didn't even think
23 about anything like that. It didn't even enter my
24 mind.

25 Q Did you ever insure the small coral ring

1 that Mr. Landau gave you?

2 A That I don't -- my husband looked down his
3 nose on it. He said 'that's junk, I don't like it.'
4 He didn't like it. When he doesn't like something
5 he doesn't bother with it.
6

7 Q So it was never insured?

8 A To the best of my knowledge -- I really don't
9 know.

10 Q Did anybody ever tell you that it was
11 your responsibility to pay duty on any of these items
12 of jewelry?

13 A No, because my husband was with me, he took
14 charge of all those things. He didn't want me to
15 have anything to say about it, that was the way,
16 not only in Customs, that was the way of our whole
17 life -- excuse me, I know it doesn't belong here.

18 Q When Mr. Landau gave you this coral
19 ring, did he tell you you had an obligation to pay
20 duty?

21 A No, more or less like my husband dismissed it.

22 Q When Mr. Bergman presented you with the
23 string of pearls at your husband's request in the
24 United States, did he tell you that you would have
25 any further obligation to the string of pearls?

1
2 A My husband never spoke to me about Customs,
3 the string of pearls.

4 Q Did your husband ever speak to you
5 about Customs declaration, about any of the jewelry
6 before the Court?

7 A No, that was his way, he didn't want to dis-
8 cuss things with me. He did tell me about the gift.

9 Q You have answered the question.
10 Your Honor, may I have marked in
11 evidence the pictures that have previously been identi-
12 fied by the witness and the Cartier bill?

13 MR. ROSENTHAL: I'll object to the
14 Cartier bill. I don't think it relates to
15 transactions in 1959 and to a broach, apparent-
16 ly which contained a marking 3598.

17 THE COURT: Overruled. I'll allow it.

18 THE CLERK: Defendant's Exhibit K
19 previously marked for identification now re-
20 ceived in evidence.

21 MR. COMETA: How about the pictures?

22 MR. ROSENTHAL: No objection to the
23 pictures.

24 THE CLERK: Defendant's Exhibits G,
25 H, I and K previously marked for identification

1
2 now marked in evidence.

3 THE COURT: I doubt whether I'll pay
4 any attention to the bill. I don't feel
5 it proves that the earrings were made by
6 Cartier in New York. In the light of the
7 testimony it appears, or indicates that it
8 was not made by Cartier of New York.

9 MR. COMETA: The pictures --

10 THE COURT: I'm not talking about the
11 pictures, I'm talking about the bill.

12 MR. COMETA: As I indicated to you,
13 Your Honor, the bill is offered for another
14 purpose and that alternative purpose is to
15 indicate that the earrings were manufactured
16 in or about 1959 and brought in and out of
17 the country regularly.

18 THE COURT: The testimony relates to
19 the time, that's the point.

20 MR. COMETA: That's the point, sir.

21 THE COURT: Have you completed your
22 direct? Any questions, Mr. Fox?

23 MR. FOX: Just a few, Your HONOR.

24 CROSS EXAMINATION BY

25 MR. FOX:

Q Mrs. Senz, I would like you to take a look at Defendant's Exhibit N in evidence again, particularly the last of the three pages there. Now, you identified the signature on that page as that of your husband?

A Yes sir.

Q And you recall being with him on the date indicated on that paper when he signed that declaration?

A I was speaking about the man questioning, the Customs man, but I don't believe I saw my husband sign that.

Q But you recognize that as his signature?

A Yes, no doubt about it.

Q When the Customs man questioned you, did he physically look at the jewelry roll you had with you?

A Yes, I took it out. He asked me do you have any jewelry to the best of my knowledge.

MR. ROSENTHAL: I'm confused as to the time of the question.

THE COURT: Let's set the time.

MR. ROSENTHAL: You are talking about 1965.

MR. FOX: In 1965.

CROSS EXAMINATION CONTINUING BY

MR. FOX:

Q Did he open the roll?

A Yes, he looked at it.

Q Did he physically touch any of the contents of the roll?

A To the best of my knowledge I opened it. He might have put his hands on something.

Q Was there jewelry contained in the roll?

A Oh yes, and the little round thing.

THE COURT: Did he give it a close inspection, piece by piece, use a jeweler's loop to examine it.

THE WITNESS: He looked at it closely but not with a jeweler's loop.

THE COURT: But piece by piece.

THE WITNESS: I opened it up, he looked at it generally, I think he did something like this with his hands (indicating).

THE COURT: Turned over a piece?

THE WITNESS: Like that (indicating) sort of like a cursory, and then he said "did you just purchase any of that?" my

1
2 husband said, "No, that's her usual jewelry
3 that she travels with."

4 THE COURT: How long did he take to
5 look at the jewelry.

6 THE WITNESS: I opened the roll and
7 the little brown pouch I had there, once I
8 opened the roll, little zippers, I pulled
9 some of the zipper down and it was more or
10 less then all open like the flower. If you
11 want to see how it opens --

12 Q Did you understand on your numerous
13 trips with Mr. Senz in and out of the country that
14 a declaration was to be filed upon reentry as to
15 jewelry that may have been purchased abroad during
16 the trip?

17 A I understood the declaration but that was my
18 husband's business. As I've stated before and I'll
19 state over and over again, as in everything in our
20 life, every respect, not just jewelry.

21 THE COURT: Did you ever declare any
22 jewelry as jewelry that you had purchased
23 abroad before you took your trip, before you
24 exited the country.

25 THE WITNESS: No.

1 THE COURT: Never did that?

2 THE WITNESS: It seems, Your Honor,
3 that was brought into practice later on. It
4 was not a practice years and years ago to
5 do that, to the best of my knowledge.
6

7 THE COURT: But you never did it.

8 THE WITNESS: No.

9 CROSS EXAMINATION CONTINUING BY

10 MR. FOX:

11 Q You were familiar when you returned
12 to the country September of 1968 with the require-
13 ments that a declaration was to be filed as to
14 jewelry you purchased during your trip abroad by
15 someone upon your return?

16 A No, because the jewelry had already been
17 declared and I was in such a state, I had nothing
18 to conceal, that's why I didn't understand this
19 interrogation. In fact I was in such a plain --
20 my husband watched over me, I don't look that way
21 now, what I have been through, this was the way of
22 life. I didn't really think about it. I didn't
23 think about it at all. I want to get to the country
24 and find justice, where I'm a citizen, where I built
25 airplanes in World War II.

MR. FOX: Your Honor, I have no further questions.

THE COURT: Anything further? Mr. Rosenthal, any questions?

CROSS EXAMINATION BY

MR. ROSENTHAL:

Q Will you look at item number 4, please, it's listed here as one ring with coral stone?

A Yes, number 4.

Q How did you acquire it?

A Mr. Landau bought one for me at San Remo.

Q That was bought in Europe?

A Yes, San Remo.

Q All eight articles have some stone or parts of those stones were manufactured in Europe or Cairo, India; is that correct?

A The stone is not manufactured.

Q It was purchased?

A The stones were.

Q None of the stones were purchased here in the United States?

A No.

Q On all eight pieces?

A No.

1
2 Q And the pictures which you examined
3 which have been introduced into evidence, were all
4 taken in places such as Paris, Venice and Capri?

5 A Yes, I believe the ones -- unless Mr. Cometa
6 has shown all of them, they were taken abroad. I
7 don't recall whether he had shown any taken in the
8 United States.

9 Q Do you have a home abroad or did you
10 at the time?

11 A I did at the time.

12 Q You wore the jewelry in Europe a number
13 of years?

14 A Back and forth also.

15 Q How many pieces of jewelry did you
16 usually travel with?

17 A Well, I would say -- you don't buy all the
18 jewelry at once, you mean at the end of the journey
19 when I came in? My husband bought me gifts at
20 different times.

21 Q How many pieces did you bring in
22 September 11, 1968?

23 A It must have been about thirty pieces, lots
24 of domestic pieces, in fact I was wearing this
25 (indicating).

Q And many times you would bring more into the country?

A I had domestic pieces too.

Q I am not asking you about that. You brought various pieces of jewelry rather than the pieces you have there?

A There were thirty, they are domestic pieces. They were foreign pieces not confiscated for some reason. As long as they were confiscating --

Q Just answer the question, please. Now, when you went to Europe and India and other places, your husband had bought you jewelry; is that correct?

A Yes.

Q When did you leave the country prior to the time that you reentered it in September 1968?

A I left it in October of 1966.

Q So the last time prior to your reentering into the country was in 1966?

A This was a two year lapse almost.

Q Two year lapse?

A Yes.

Q And during that two years did you live with your husband in Europe?

1
2 A Yes, I did.

3 Q Did he buy you jewelry?

4 A During that two years, to the best of my
5 knowledge -- because I was going back and forth. I
6 wasn't with my husband very much. He was in Monte
7 Carlo. After the operation --

8 THE COURT: Did you come back alone
9 during that period of two years.

10 THE WITNESS: I came back alone in
11 '68.

12 THE COURT: Was that the first time
13 that you came back alone?

14 THE WITNESS: I came back alone just
15 one time before and that was the day after
16 President Kennedy was assassinated.

17 THE COURT: On that occasion did you
18 have all your jewelry with you.

19 THE WITNESS: I had my jewelry. I've
20 brought a coat. I was auditioning in Europe
21 and my husband was not with me, and I bought
22 a coat and my husband was to meet me at the
23 airport. The plane was Lufthansa and we had
24 to circle for two hours and we were to circle
25 and go to Canada, we had to stay there and

1
2 refuel and my husband and his partner were
3 there in the car, they all went away because
4 the plane was five hours late.

5 Q Prior to 1966 after President Kennedy
6 was assassinated --

7 MR. COMETA: That was not her testimony.

8 MR. FOX: When was the time you entered
9 the country after 1966.

10 THE COURT: I think the question you
11 answered you returned after President Kennedy
12 was assassinated. I asked you when you returned
13 alone you said the time you returned alone was
14 between '66 and '68.

15 THE WITNESS: He was assassinated in
16 '63.

17 THE COURT: I think I asked you --

18 THE WITNESS: That was the only time
19 that I returned.

20 THE COURT: So that was in 1963 that
21 time you returned alone.

22 THE WITNESS: Yes.

23 THE COURT: And you said you had all
24 your jewelry with you.

25 THE WITNESS: Yes.

1 CROSS EXAMINATION BY

2 MR. ROSENTHAL CONTINUING:

3 Q How many pieces of jewelry did you have
4 in 1966, approximately?

5 THE COURT: When you say did you have,
6 did you have with you or did you own.

7 Q How many pieces of jewelry did you have
8 in Europe back around 1966 while you were over in
9 Europe?

10 A I had practically -- I had all of my jewelry
11 then.

12 Q About how many pieces would that be?

13 THE COURT: Did you ever sell any
14 jewelry.

15 THE WITNESS: I never sold any jewelry.

16 THE COURT: So you had everything that
17 you had in 19-- I'm sorry, if you didn't make
18 any additional purchases you had everything
19 in '66 that you had in '68.

20 THE WITNESS: Yes.

21 THE COURT: Did you make any purchases
22 or did your husband make any purchases.

23 THE WITNESS: I was trying to think
24 very hard. I was trying to give an honest
25

1
2 answer therefore I had to think a bit, this
3 was after a tremendous blow physically and
4 emotionally. I almost passed away and that
5 was in March of '66 and then we left the
6 following May for Europe, and then we came
7 back again. We left the following October
8 '66 and then I didn't come back again until
9 September 11, 1968.

10 THE COURT: Does that answer your
11 question.

12 CROSS EXAMINATION CONTINUING BY

13 MR. ROSENTHAL:

14 Q And you said on your previous times
15 you came into the country with your husband, you
16 saw your husband declare, make a declaration?

17 A It was always a gentleman at the belt, little
18 table, if we bought something new he would go to the
19 Customs man.

20 Q You saw him make out a declaration?

21 A He would fill out, check or something. I
22 didn't pay any attention. He wanted me to stand
23 aside and not be in his way. I kept saying our
24 whole life was like that.

25 Q When he told you to stand to the side

1
2 did he state to you shut up and stand aside?

3 A That I relate to the two gentlemen Mr. Terrano
4 but the other gentleman was not there. The man with
5 the loop he disappeared.

6 Q But he did tell you one time "Shut up
7 and stand aside."

8 A When he was annoyed with me after the trip
9 and impatient as many husbands tell their wives.

10 Q Wasn't this because he didn't want
11 you to know what he was doing when he was declaring
12 the jewelry?

13 MR. COMETA: Objection.

14 MR. FOX: Objection.

15 THE COURT: Sustained. I think it's
16 argumentative.

17 Q Now, you said that you read the slip
18 that was given to you about the declarations when
19 you were coming back on your plane flight in
20 September of 1968?

21 A Yes, I was on the plane.

22 Q And you read that?

23 A I hardly read it. I hadn't glasses yet to
24 read. A young man was sitting next to me and he saw
25 the state I was in.

1
2 Q The state you were in, you did read?

3 A It seemed to say something -- if you have
4 been out of the country two years you do not have
5 to declare anything, and since I practically lived
6 in Europe I wasn't thinking of declaring. When you
7 live in Europe you don't come to shop at Saks.

8 MR. ROSENTHAL: No further questions.

9 THE COURT: Anything further.

10 MR. FOX: Nothing.

11 MR. COMETA: This is Harriet Senz's
12 case.

13 THE COURT: Mr. Fox, would you want
14 to keep this open to present Mr. Senz.

15 MR. FOX: I think I would. I can
16 have him here at the earliest the beginning
17 of next week and he's presently in Puerto
18 Rico, I would believe.

19 THE COURT: The only time that I
20 can possibly take this would be, I don't
21 know if any of you have anything about working
22 on Good Friday.

23 MR. COMETA: I do, Your Honor. I
24 never work on Good Friday.

25 THE COURT: The alternative is setting

1
2 it down for 9 o'clock on any day that we can
3 except Monday.

4 MR. COMETA: The week of the 16th.

5 THE COURT: Yes. And I hope we can
6 complete his testimony in one hour. When
7 I have a criminal trial the jury comes in at
8 10 o'clock. If it takes longer you can wait
9 around and I'll take it the end of the day
10 or we may put it down for 4:30 in the after-
11 noon and I would see that I suspend my jury
12 trial and continue this until I finish, and
13 I would go as long as it was necessary.

14 MR. COMETA: I have trials the 16th
15 and 17th.

16 THE COURT: If you have a trial on the
17 16th and 17th you cannot get down to Court
18 at 4:30. You have a trial beginning the 16th.

19 MR. COMETA: I have a trial in Nassau
20 County which is the 16th, one day trial and
21 a trial in Richmond beginning the 17th.

22 THE COURT: How can you get over here
23 at 4:30 if they suspend at 4:30.

24 MR. COMETA: I'm first on the trial
25 calendar. I have every reason to believe

1
2 that I'll be finished at 1 o'clock that day.
3 Of course, I've said that before but I'm
4 pretty sure about it in this case.

5 THE COURT: I'll put it down for
6 Tuesday at 4:30.

7 Have you ordered a copy of the trans-
8 cript? I'm concerned about making findings.
9 After hearing the case piecemeal over a
10 period of time I have practically no notes.
11 I don't think I can make findings on that,
12 this is what I have.

13 MR. FOX: Would it be all right to
14 present a deposition, one issue the payment.

15 THE COURT: That depends if a party
16 -- first party testimony cannot be presented
17 except by the other side, the adversary. That's
18 up to Mr. Rosenthal. If he has the right to
19 have cross examination he can submit it and
20 consent to it, I certainly have no objection
21 to it.

22 MR. ROSENTHAL: Perhaps it could be,
23 I believe that's the same -- I would think we
24 could perhaps -- if the Court is available
25 to rule on objections.

DIJr:RR:ms
70C241

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,	:	
Plaintiff	:	<u>JUDGMENT</u>
- against -	:	
ARTICLES OF JEWELRY and WEARING	:	Civil Action
APPAREL and HARRIET L. SENZ,	:	No. 70 C 281
Defendant	:	
IRA SENZ,	:	
Claimant-Intervenor.	:	
	:	

----- X

This action came on for trial before the Court without a jury, Honorable Jacob Mishler, United States District Judge, presiding, and the issues having been duly tried and the Court having duly rendered its decision by memorandum dated August 10, 1973,

IT IS ORDERED AND ADJUDGED as follows:

1. Plaintiff is entitled to forfeiture of item 10, without the imposition of any penalty upon defendant, Harriet L. Senz;

2. Defendant, Harriet Senz, is entitled to the return of her possession of items 1 to 9, and plaintiff is directed to return the said items to the defendant, Harriet Senz;

3. Defendant, Harriet Senz, is entitled to retain in her possession, item 11;

U.S. Atty EDNY
Civil Division

4. Claimant-intervenor, Ira Senz, having failed to establish any right to any of the said items, his claim is dismissed;

Presented

Checked

Approved

5. Defendant, Harriet Senz's cross-claims against claimant-intervenor, Ira Senz, are dismissed;

Date of filing

6. This judgment is stayed pending the disposition of plaintiff's appeal to the United States Court of Appeals from the Second Circuit.

Dated: Brooklyn, New York
September 1973

U. S. D. J.

KS:RR:ms
P. 700241

A 115

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :
Plaintiff :
- against - :
ARTICLES OF JEWELRY and WEARING :
APPAREL and HARRIET L. SENZ, :
Defendant. :
----- X

NOTICE OF APPEAL

Civil Action
No. 70 C 281

NOTICE IS HEREBY GIVEN that the United States of America, the plaintiff above-named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final judgment entered in this action on the 21st day of September, 1973.

Dated: November 16, 1973
Brooklyn, New York

ROBERT A. MORSE
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Brooklyn, New York

By:

ROBERT ROSENTHAL
Assistant U.S. Attorney

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280 Park Avenue
New York, New York 10017

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 116

-----X
UNITED STATES OF AMERICA,

Plaintiff,

-against-

NOTICE OF PROTECTIVE
CROSS-APPEAL

ARTICLES OF JEWELRY and
WEARING APPAREL and HARRIET L.
SENZ,

No. 70 C 281

Defendant.

IRA SENZ,

Claimant-Intervenor.

LKS/g
F# 73223

-----X
NOTICE IS HEREBY GIVEN that the defendant Harriet L. Senz,
hereby appeals to the United States Court of Appeals for the
Second Circuit from so much of the final judgment entered
in this action on the 21st day of September, 1973, dismissing
defendant's cross-claims against her husband, claimant-
intervenor, Ira Senz, which protective cross-appeal will only
become operative in the event that the Plaintiff-Appellant
is successful in reversing the judgment appealed from
in favor of Defendant-Appellee.

Dated: November 28, 1973
New York, New York

Phillips, Nizer, Benjamin, Krim &
Ballon
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By: Angelo T. Crmeta
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